



FIRST REPORT  
OF THE  
ROYAL COMMISSION  
ON  
LOCAL GOVERNMENT

---

CONSTITUTION AND EXTENSION  
OF COUNTY BOROUGH.

*Presented to Parliament by  
Command of His Majesty.*

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## NOTE.

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## ROYAL COMMISSION ON LOCAL GOVERNMENT.

(Appointed by Royal Warrant dated the 14th February, 1923.)

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### TERMS OF REFERENCE

To inquire as to the existing law and procedure relating to the extensions of County Boroughs and the creation of new County Boroughs in England and Wales, and the effect of such extensions or creations on the administration of the Councils of Counties and of Non-County Boroughs, Urban Districts and Rural Districts; to investigate the relations between these several Local Authorities; and generally to make recommendations as to their constitution, areas and functions.

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\* Appointed by Royal Warrant dated the 5th March, 1925, in place of the late Sir W. Ryland D. Adkins, K.C.

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## NOTE.

In this Report, references in footnotes to Memoranda of Evidence submitted to the Commission by witnesses, and to Questions answered by them, are made in the following form:

- M. followed by a number. Memorandum of Evidence and paragraph.  
Q. followed by a number: Question.

The figures in brackets following the reference show the Part of the Minutes of Evidence taken before the Commission and published, and the page, at which the passage referred to will be found.

## THE ROYAL COMMISSION

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GEORGE R.I.

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, to

Our Right Trusty and Right Well-beloved Cousin Richard William Alan, Earl of Onslow;

Our Right Trusty and Well-beloved Counsellor Edward, Baron Strachie; and

Our Trusty and Well-beloved :—

Sir George Mark Watson Macdonogh, Knight Commander of Our Most Honourable Order of the Bath, Knight Commander of Our Most Distinguished Order of Saint Michael and Saint George, Lieutenant-General of Our Forces;

Sir William Ryland Dent Adkins, Knight, one of Our Counsel learned in the Law;

Sir William Middlebrook, Knight;

Sir Lewis Beard, Knight;

Sir Walter Powell Nicholas, Knight;

Walter Robert Buchanan Riddell, Esquire, Master of Arts;

Edward Honoratus Lloyd, Esquire, one of Our Counsel learned in the Law;

Arthur Mielzener Myers, Esquire (the Honourable Arthur Myers), sometime a Member of the Supreme Council of the Dominion of New Zealand;

Harry Goring Pritchard, Esquire;

Edmund Russborough Turton, Esquire; and

John Lloyd Vaughan Seymour Williams, Esquire, upon whom We have conferred the Territorial Decoration, Lieutenant-Colonel, late Royal Engineers, Territorial Army,

Greeting!

Whereas We have deemed it expedient that a Commission should forthwith issue to inquire as to the existing law and procedure relating to the extensions of County Boroughs and the creation of new County Boroughs in England and Wales, and the effect of such extensions or creations on the administration of the Councils of Counties and of non-County Boroughs, Urban Districts and Rural Districts; to investigate the relations between these several local authorities; and generally to make recommendations as to their constitution, areas and functions:



Now know ye that We, reposing great trust and confidence in your knowledge and ability, have authorized and appointed, and do by these Presents authorize and appoint you, the said Richard William Alan, Earl of Onslow (Chairman); Edward, Baron Strachie; Sir George Mark Watson Macdonogh; Sir William Ryland Dent Adkins; Sir William Middlebrook; Sir Lewis Beard; Sir Walter Powell Nicholas; Walter Robert Buchanan Riddell; Edward Honoratus Lloyd; Arthur Mielzener Myers; Harry Goring Pritchard; Edmund Russborough Turton and John Lloyd Vaughan Seymour Williams to be Our Commissioners for the purpose of the said inquiry.

And for the better effecting the purpose of this Our Commission, We do by these Presents give and grant unto you, or any five or more of you, full power to call before you such persons as you shall judge likely to afford you any information upon the subject of this Our Commission; to call for information in writing; and also to call for, have access to and examine all such books, documents, registers and records as may afford you the fullest information on the subject, and to inquire of and concerning the premises by all other lawful ways and means whatsoever.

And We do by these Presents authorize and empower you, or any one or more of you, to visit and personally inspect such places as you may deem it expedient so to inspect for the more effectual carrying out of the purposes aforesaid

And We do by these Presents will and ordain that this Our Commission shall continue in full force and virtue, and that you, Our said Commissioners, or any five or more of you, may from time to time proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment.

And We do further ordain that you, or any five or more of you, have liberty to report your proceedings under this Our Commission from time to time, if you shall judge it expedient so to do.

And Our further will and pleasure is that you do, with as little delay as possible, report to Us under your hands and seals, or under the hands and seals of any five or more of you, your opinion upon the matters herein submitted for your consideration.

Given at Our Court at *Saint James's*, the fourteenth day of February, one thousand nine hundred and twenty-three in the thirteenth year of Our Reign.

By His Majesty's Command,

*W. C. Bridgeman.*

Royal Commission  
on Local Government.

GEORGE R.I.

GEORGE THE FIFTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, to Our Trusty and Well-beloved Samuel Taylor, Esquire, Barrister at Law :

Greeting !

Whereas We did by Warrant under Our Royal Sign Manual bearing date the fourteenth day of February, one thousand nine hundred and twenty-three appoint Commissioners to inquire as to the existing law and procedure relating to the extensions of County Boroughs and the creation of new County Boroughs in England and Wales, and the effect of such extensions or creations on the administration of the Councils of Counties and of non-County Boroughs, Urban Districts and Rural Districts; to investigate the relations between these several local authorities and generally to make recommendations as to their constitution, areas and functions.

And whereas a vacancy has been caused in the body of Commissioners appointed as aforesaid, by the death of Sir William Ryland Dent Adkins, Knight, one of Our Counsel learned in the Law :

Now know ye that We, reposing great trust and confidence in your knowledge and ability, have authorized and appointed, and do by these Presents authorize and appoint you the said Samuel Taylor to be one of Our Commissioners for the purposes aforesaid in the room of the said Sir William Ryland Dent Adkins, deceased.

Given at Our Court at *Saint James's*, the fifth day of March, 1925, in the fifteenth year of Our Reign.

By His Majesty's Command,  
*W. Joynson Hicks.*

Samuel Taylor, Esquire.

To be a member of the Royal  
Commission on Local Government.

# ROYAL COMMISSION ON LOCAL GOVERNMENT.

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## FIRST REPORT.

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TO THE KING'S MOST EXCELLENT MAJESTY.

MAY IT PLEASE YOUR MAJESTY, .

1. WE, the Commissioners appointed under Your Majesty's Royal Warrant of the 14th February, 1923, to inquire as to the existing law and procedure relating to the extensions of County Boroughs and the creation of new County Boroughs in England and Wales, and the effect of such extensions or creations on the administration of the Councils of Counties and of Non-County Boroughs, Urban Districts and Rural Districts; to investigate the relations between these several Local Authorities; and generally to make recommendations as to their constitution, areas and functions, humbly beg leave to report as follows upon that part of our terms of reference which relates to the constitution of County Boroughs, the extension of the boundaries of County Boroughs, and the effect of such constitution or extension on the administration of other Local Authorities :—

## INTRODUCTORY.

### **Membership of the Commission.**

2. One change has occurred in the membership of the Commission since our appointment.

On the 30th January, 1925, our colleague Sir W. Ryland D. Adkins, K.C., died; and on the 5th March, 1925, Mr. Samuel Taylor was appointed under Your Majesty's Royal Warrant to fill the vacancy in our body.

3. The public services of Sir Ryland Adkins in Parliament and in local administration were esteemed by all who knew them, and we could add nothing to the tributes which were paid to them after his death. But we desire to say of him as a colleague, what no one else is in a position to say, that the unanimity of the conclusions and recommendations stated in this Report is due in large measure to the spirit of co-operation and conciliation which he invariably showed as a partner in our labours. He bore a full share of the burden of those labours; and we deeply regret that he did not live to see the result of the deliberations to which he contributed so much in learning, in wit, and in mastery of the art of persuasion.

### Scope of the Inquiry.

#### ORDER IN WHICH THE TERMS OF REFERENCE ARE DEALT WITH.

4. Our terms of reference fall into two parts, the first relating to the constitution and extension of County Boroughs and their effects, and the second to the relations between Local Authorities, and their constitution, areas, and functions generally. In view of the wide scope of the inquiry thereby entrusted to us, we provisionally determined at the outset to consider and report upon the first part of the terms of reference before dealing with the second part.

We have found it possible to adhere to this course, although the two branches of the inquiry cannot be entirely exclusive of each other.

#### EXCLUSION OF THE ADMINISTRATIVE COUNTY OF LONDON.

5. Our terms of reference relate to England and Wales as a whole, and do not, therefore, formally exclude the Administrative County of London from the purview of our inquiry.

But the local government of that County and of the surrounding districts was at the date of our appointment under investigation by the Royal Commission on London Government appointed under Your Majesty's Royal Warrant of the 24th October, 1921. Their Report was issued shortly after our appointment. We determined that in these circumstances no useful purpose would be served by our instituting any further inquiry into the local government of the Administrative County of London, and that subject is accordingly not dealt with in this Report.

6. In considering the relation of our inquiry to the inquiry of the Royal Commission on London Government into the local government of districts surrounding London, we had before us the statement in the Report of that Commission\* that they had refrained from making any recommendations on the subject of the constitution or extension of County Boroughs in such districts, on the ground that we had already been appointed to inquire into these problems as they arose in any part of England or Wales.

7. The Report of the Royal Commission on London Government† also refers to the question whether the existing law and practice relating to the union of County Districts (otherwise than by their inclusion within the boundaries of County Boroughs) is capable of improvement, as one which could not properly be considered by them in relation to the Districts surrounding London alone, but might fall within the scope of the inquiry entrusted to us.

It will be our duty to deal with this question in the second part of our inquiry.

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\* Cmd. 1830, paragraph 309, page 80.

† Cmd. 1830, paragraph 308, page 80.

8. In this Report we deal with the question of the constitution of County Boroughs and the extension of their boundaries as it affects England and Wales generally, without discrimination between the districts surrounding the Administrative County of London and other districts.

#### EXCLUSION OF BOARDS OF GUARDIANS.

9. Our terms of reference do not cover the administration of the Poor Laws and other services by Boards of Guardians, and this subject is accordingly not dealt with in this Report.

#### EXCLUSION OF PARISH MEETINGS AND PARISH COUNCILS

10. Our terms of reference do not include Parish Meetings and Parish Councils, and these Local Authorities are accordingly mentioned in this Report only in historical or descriptive statements.

#### LOCAL AUTHORITIES COVERED BY THE TERMS OF REFERENCE.

11. The numbers of the Local Authorities covered by our terms of reference, excluding those within the Administrative County of London, were, on the 1st April, 1922, as follows :—

Rural District Councils ... ..	648
Urban District Councils ... ..	791
Town Councils :	
Councils of Non-County Boroughs ... ..	247
Councils of County Boroughs ... ..	82
County Councils (including the Council of the Isles of Scilly) ... ..	62
Total ... ..	1,830

#### Procedure of the Commission.

##### GENERAL.

12. We held our first meeting on the 27th February, 1923, and on that occasion decided that, as a general rule, the Press and the public should be admitted to the meetings at which we heard oral evidence; that the persons to be heard should be heard as witnesses; and that the examination of witnesses should be conducted by ourselves.

#### ARRANGEMENTS FOR RECEIVING EVIDENCE.

##### *From Government Departments and Parliamentary Authorities*

13. We thought it desirable in the first place to obtain in evidence as full a statement as possible of the principal facts in the history of local government, and the principal characteristics

of the existing system, from the Government Departments concerned with various services, and from the Parliamentary Authorities. This evidence, which is contained in Parts I and II of the Minutes of Evidence taken before us and published, is not restricted to the subject-matter of the first part of our terms of reference, but is a historical and descriptive survey of the whole field of our inquiry.

Matters of opinion in relation to the question of the constitution and extension of County Boroughs were discussed, in the course of this evidence, with certain witnesses specially familiar with these matters, but in general the witnesses who gave this evidence were not invited by us, or authorized by the responsible Ministers, to deal at that stage with matters of policy as distinct from matters of fact.

14. A similar statement in regard to the local government system of Scotland was furnished to us by the Secretary for Scotland, and will be found in Part VII of the Minutes of Evidence taken before us and published.

15. On behalf of the Parliamentary Authorities, Sir Albert Gray, K.C.B., K.C., formerly Counsel to the Chairman of Committees, House of Lords, and Sir Ernest Moon, K.C.B., K.C., Counsel to the Speaker, House of Commons, furnished us with both written and oral evidence based upon their intimate knowledge of the procedure of Parliament in regard to Private Bills, the confirmation of Provisional Orders, and other matters relevant to our inquiry.

16. We sat on eleven days between April and July, 1923, to hear the preliminary evidence under this head; and at a later stage, when the issues arising on the first part of our inquiry had become more clearly defined, on four further days to hear evidence on specific questions from representatives of the Ministry of Health and of the Ministry of Transport, and from the Rt. Hon. the Earl of Donoughmore, K.P., Chairman of Committees of the House of Lords, who was so good as to assist us from his great experience of local legislation.

A list of the Departments from whose representatives evidence was received (a) both in writing and orally, and (b) in writing only, is given in Appendix I to this Report.

#### *From Local Authorities.*

17. In October, 1923, the preliminary evidence under the foregoing head having been published, we began to hear evidence submitted on behalf of Local Authorities. This evidence, which is contained in Parts III to VII of the Minutes of Evidence taken before us and published, is restricted to the subject-matter of the first part of our terms of reference.

18. We had at the outset invited both the County Councils Association and the Association of Municipal Corporations each

to furnish us with a preliminary memorandum setting out the facts and the main questions of principle which in the opinion of the Local Authorities represented by each Association were relevant to the first part of our inquiry. After considering these memoranda, we arranged to hear in the first place one witness on behalf of each Association, who would undertake to explain to us the general standpoint from which the Authorities for whom he spoke viewed the problems presented to us, and the solutions which they proposed. This evidence was given on behalf of the County Councils Association by Mr. Francis Dent, an Alderman of the Essex County Council, and on behalf of the Association of Municipal Corporations by the late Sir Robert Fox, Town Clerk of Leeds.

19. We subsequently heard, on behalf of the County Councils Association, the late Lord Long of Wraxall, and witnesses who spoke from personal experience of County administration in Bedfordshire, Essex, Glamorganshire, Lancashire, Middlesex, Nottinghamshire, Staffordshire, Surrey, and the West Riding of Yorkshire; and, on behalf of the Association of Municipal Corporations, witnesses who spoke from personal experience of municipal administration in the County Boroughs of Birmingham, Blackpool, Eastbourne, Exeter, Manchester, Plymouth, Reading, Southport, Swansea, and Wolverhampton, and in the Non-County Boroughs of Cambridge, Doncaster, Lowestoft, Luton, and Torquay.

We further heard evidence at a later date from the Town Clerk of Hartlepool as to the views on certain questions of nine of the smaller Non-County Boroughs.\*

20. In addition, the County Councils Association and the Association of Municipal Corporations were so good as to arrange, at our request, that the evidence specially relating to the question of financial adjustments necessitated by the constitution or extension of County Boroughs which they desired to submit to us should take the form of (a) a memorandum prepared jointly for this purpose by their respective representatives, Mr. W. B. Keen and Mr. Arthur Collins, on the history, law, and practice relating to financial adjustments, so far as the views of County Councils and Town Councils on these matters did not differ; (b) separate memoranda by Mr. Keen and Mr. Collins on questions about which the two types of Local Authorities held different views; and (c) oral evidence by Mr. Keen and Mr. Collins in support of their joint memorandum and their separate memoranda.

\* The names of these Boroughs and their populations in 1921 were as follows:—

Bexhill...	...	20,363	Oswestry ...	9,785
Bridport	...	5,909	Redcar ...	16,401
Clitheroe	...	12,202	Sutton Coldfield ...	23,020
Glossop	...	20,531	Thornaby-on-Tees...	19,826
Hartlepool	...	20,997		

21. In July, 1924, we were able to proceed to hear evidence on behalf of the Urban District Councils Association, which was given by Mr. W. T. Postlethwaite, O.B.E., LL.B., a Member of the Executive Council of the Association, and Clerk to the Swinton and Pendlebury Urban District Council, and by members of the Urban District Councils of Shipley and Penarth, and evidence on behalf of the Rural District Councils Association, which was given by Mr. W. B. Pindar, Chairman of the Parliamentary Committee of the Executive Council of the Association, and Clerk to the Hunslet Rural District Council, and by the Clerk to the Neath Rural District Council.

The small number of witnesses heard on behalf of Local Authorities of these types was due to the readiness of the Urban District Councils Association and the Rural District Councils Association to facilitate the arrangement of our business and the completion of the task of hearing evidence relevant to the first part of our inquiry by agreeing that these witnesses should appear after we had heard the witnesses on behalf of County Councils, and should not repeat the views expressed to us on behalf of County Councils if, as proved to be the fact, they were able to say that the Urban District Councils and the Rural District Councils represented by the respective Associations concurred generally with those views.

We took special care to verify in the examination of these witnesses the extent to which the Local Authorities on whose behalf they spoke were in agreement with the evidence submitted to us on behalf of County Councils, in order that there should be ample opportunity for the discussion of any differences of view between the District and the County Councils; and such differences as emerged were, we think, fully dealt with by the witnesses.\*

22. We sat on thirty-six days to hear evidence on behalf of Local Authorities. A list of the witnesses whom we heard is given in Appendix II to this Report.

#### APPRECIATION OF THE ASSISTANCE GIVEN BY WITNESSES.

23. The Minutes of Evidence taken before us and published will make it clear to all who have occasion to consult them that we are much indebted to the Government Departments, the Parliamentary Authorities, the Associations of Local Authorities, and the witnesses who appeared before us, for the orderly presentation of the facts and the informed and moderate expression of the opinions brought together in those volumes.

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\* Urban District Councils Association (Postlethwaite), Q. 22,205-8 (VI, 1321), Q. 22,311-3 (VI, 1326), Q. 22,348-55 (VI, 1327), Q. 22,505-7 (VI, 1336); (Rhodes), Q. 22,762-5 (VI, 1348); Rural District Councils Association (Pindar), Q. 23,106 (VI, 1363), Q. 23,147-51 (VI, 1366), Q. 23,157 (VI, 1366), Q. 23,214-9 (VI, 1369), Q. 23,258-9 (VI, 1370); (Williams), Q. 23,525-6 (VI, 1381).



We feel that in listening to evidence we were specially fortunate in having before us witnesses who came to confer with us upon admitted difficulties rather than to convert us by advocacy to any uncompromising view.

24. Our experience has been such that we should feel it invidious to name any, unless we named all, of the witnesses who may read this Report. But we desire to mention here those who appeared before us and are no longer living, Lord Long of Wraxall, Sir Robert Fox, Mr. W. W. Marks, and Mr. R. Beattie Nicholson, O.B.E. Each of them contributed to our deliberations the views derived from a life-time spent in service to local administration, the first in Parliament and at the Local Government Board, the second in great towns, the third mainly in an Administrative County, the fourth in a Non-County Borough.

Lord Long recalled to us the Parliamentary history of the Local Government Act, 1888, with unique authority. Sir Robert Fox stated the general views of Municipal Corporations with the intimate knowledge derived from an experience of over thirty years. Mr. Marks, from an experience of similar duration, described the position of certain County Councils specially affected by proposals for the constitution of County Boroughs; and Mr. Nicholson, who became Town Clerk of Lowestoft before the Act of 1888 was passed, reviewed in detail the history and the effect of the Act in their bearing upon a town situated in an Administrative County mainly rural in character.

#### VISITS TO CERTAIN LOCALITIES BY MEMBERS OF THE COMMISSION.

25. In October and November, 1924, a number of our body exercised the power conferred upon us by Your Majesty's Royal Warrant to visit and personally inspect such places as we might deem it expedient to inspect for the more effectual carrying out of our inquiry, by visiting the areas of certain Local Authorities of all types in (a) the West Riding of Yorkshire, Lancashire, and Cheshire, and (b) Bedfordshire, Cambridgeshire, Huntingdonshire, and Northamptonshire.

No evidence was taken during these visits, which were of an informal character. We arranged to travel almost entirely by road and to meet representatives of the Local Authorities in all the areas in which time permitted us to break our journeys.

26. The courtesy of the Authorities of all types, some of whose representatives accompanied us throughout our journeys, made these visits, which lasted five days and two days respectively, both agreeable and informative. We were enabled to see for ourselves something of the extent and variety of the problems discussed before us in evidence, as they arose from geographical conditions, the distribution of population or industry, or other circumstances.

A list of the Local Authorities whose representatives we were able to meet during these journeys is given in Appendix III to

this Report. We are glad to put on record our appreciation of the cordiality with which they received us and the readiness with which they placed their local knowledge at our disposal.

INFORMATION RECEIVED AS TO LOCAL GOVERNMENT IN THE  
BRITISH EMPIRE AND IN FOREIGN COUNTRIES.

27. At an early stage of our inquiry, Your Majesty's Principal Secretaries of State for India, for the Colonies, and for Foreign Affairs, undertook at our request to transmit to the proper quarters certain inquiries which we thought it desirable to make as to the systems of local government existing in the Indian Empire, in Your Majesty's Dominions beyond the Seas, and in foreign countries.

In response to these inquiries we have received and carefully considered a number of memoranda and other documents which have been of much interest to us as exhibiting the diverse forms in which problems of local government arise, and their solution is sought, under systems of administration different from that of England and Wales.

A list of the countries whose Governments have been so good as to furnish us with information is given in Appendix IV to this Report; and we desire to acknowledge our obligation to all those who undertook the task of preparing replies to our inquiries.

We propose to arrange for the publication in a separate volume of information contained in, or based upon, those replies.

**General Arrangement of the Contents of the First Report.**

28. The matter of our inquiry is dealt with in the remainder of this Report in the following order.

In Part I (Chapters I to VI) we endeavour to indicate the point of view from which the existing system of local government in England and Wales should be regarded, and to give a brief statement of essential facts relating to it as it stands at the moment.

29. In Part II (Chapters VII to XII) we present a summary of the evidence taken before us in regard to the constitution and the extension of County Boroughs, and the effects of such changes in the system of local government upon the administration of Local Authorities.

Chapters VII and VIII summarize the evidence in regard to the methods by which proposals for such changes are dealt with under the existing law and procedure.

Chapters IX to XII summarize the evidence in regard to the existing law and procedure generally, as it related both to the constitution and to the extension of County Boroughs (Chapter IX), to the financial adjustments which follow the constitution or extension of County Boroughs (Chapter X), to the constitution

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of County Boroughs only (Chapter XI), or to the extension of County Boroughs only (Chapter XII).

30. Part III (Chapters XIII to XV) contains the conclusions and recommendations at which we have arrived in regard to the matters dealt with in the first part of our inquiry.

In Chapter XIII we set out our conclusions and recommendations which relate to methods of dealing with proposals for the constitution or the extension of County Boroughs.

In Chapter XIV we set out our conclusions and recommendations which relate generally to the existing law and procedure governing the constitution or the extension of County Boroughs.

In Chapter XV we summarize the conclusions and recommendations at which we have arrived.

## **PART I.—THE EXISTING SYSTEM OF LOCAL GOVERNMENT IN ENGLAND AND WALES.**

---

### **ARRANGEMENT OF THIS PART OF THE REPORT.**

31. In this Part of our Report we describe at the outset the general character of the existing system of local government in England and Wales as it has been formed and altered by various means between 1834 and the present time.

We then give particulars of the existing system for the purpose of indicating what is the subject-matter with which we have to deal in the course of our inquiry.

In the first place, in Chapter I, we describe briefly what the principal types of Local Authorities are, how the status of Local Authorities and the boundaries of their areas can be altered, and how, and for how long, the members of the several types of Authorities are appointed.

Next, in Chapter II, we indicate what the Local Authorities of the several types must or may do under the existing law.

Thirdly, in Chapters III and IV, we show in outline how the Local Authorities of the several types do their work, that is, when they meet, how they take decisions, how they act through Committees, what officers they appoint, and to what extent they can and do co-operate for the purposes of some of their work.

Fourthly, in Chapter V, we indicate how the work done by Local Authorities is paid for, how much it costs, and how their accounts are audited.

Lastly, in Chapter VI, we record certain facts in regard to the growth and distribution of population, area, and rateable value as affecting Local Authorities, including particulars of the changes in this respect affecting Administrative Counties and County Boroughs which gave rise to the first part of our inquiry.

The statements in these Chapters are so far as possible based upon the evidence submitted to us by officers of Government Departments. We need scarcely say that they do not purport to be complete, or to interpret with any authority the provisions of the existing law. A fuller statement on many points will be found in Parts I and II of the Minutes of Evidence taken before us and published.

### **GENERAL CHARACTER OF THE SYSTEM.**

32. The organization of local government in England and Wales can be best understood if it is considered historically. It does not, like the French system, represent the single conception of a great organizing brain, but has grown up and developed as

local or national needs had to be met, and difficulties overcome. This process still continues. The constitution of Local Authorities may perhaps be regarded as substantially settled, but the distribution of their functions is even now under the consideration of Parliament and Ministers.

33. The roots of the system, if it may be so called, are to be found in long past history. But it is not necessary for the purposes of this Report to go further back than the year 1834, when the Poor Law was first organized nationally. At that date the relief of the poor was in the hands of the Overseers of the Parish, to whom it had been entrusted by Parliament in 1601, and the abuses which had arisen called for a drastic remedy. New units of administration in the shape of Unions of Parishes were set up, and specially elected Authorities, the Boards of Guardians, were constituted to manage the business of relief. In addition, and this was perhaps the most important new departure, a central Authority, the Poor Law Commissioners, was set up and made responsible to Parliament for supervising and controlling the work of the new Boards.

34. In the next year, 1835, Parliament addressed itself to the task of reorganizing municipal government. It had for many centuries been the practice of urban communities, when they reached a certain stage of development, to apply to the Crown for a Charter of incorporation giving them powers of local government, and to a certain extent separating them from the body of the County in which they were situate. But the terms of such Charters varied from place to place, and the powers which they gave were by no means uniform. They were generally much more limited and confined to many fewer matters than are now administered by Municipal Corporations.

The Municipal Corporations Act, 1835, while still reserving to the Crown the power of granting Charters, standardized the constitution to be bestowed upon Boroughs thereunder, and regulated the constitution and functions of the local bodies, the Town Councils, to be set up. The Act also reserved to the Crown the power which had from time to time been exercised of granting to a Borough the right to have its own Quarter Sessions, thus removing it from the jurisdiction of the County in this respect.

35. Apart from this general legislation, many towns had promoted Private Bills in Parliament for local government purposes, and by this means had obtained powers for dealing locally with matters which were not the subject of general legislation. The most important of these Acts dealt with questions of health, such as removal of nuisances, provision of sewers, and similar matters, and in this way the foundation was laid for the next advance in general legislation, which was the Public Health Act of 1848. This Act, which was adoptive, gave powers to the inhabitants not only of towns under the Municipal Corporations Act, but also of other urban areas, to set up

Authorities to deal with questions affecting the health of their inhabitants, and bestowed upon those Authorities powers similar to those which had been obtained by the towns which had promoted the Acts which have just been mentioned.

The supervision of the work of Local Authorities in this respect was again entrusted to a central Department, the forerunner of the Local Government Board and the Ministry of Health, the head of which became responsible to Parliament.

36 As the new powers were brought into operation by Local Authorities and their usefulness proved by experience, the adoption of the Act became widespread, and ultimately the whole country was organized for health purposes under the general Public Health Act of 1875. Under this Act, the existing organization in Boroughs was made use of, the Town Council being constituted the Authority for the administration of the health powers, while in Districts outside the towns special Authorities, the forerunners of the present Urban and Rural District Councils, were set up under various names.

37. Turning now to County government, jurisdiction of a limited nature has been exercised for several centuries by the Justices in Quarter Sessions, and this administrative organization was made use of by Parliament when bestowing fresh powers of local government upon Counties by such measures as the County Police Acts, under which the County constabulary was originally organized, and the Highways and Locomotives Act, under which main roads first came into existence. But the general reorganization of County government did not take place until 1888.

38. Under the Local Government Act of that year, County Councils were set up on an elective basis to take the place of the nominated Magistrates as administrators of County business. At the same time, a new class of Boroughs, namely, County Boroughs, was created, which was entirely exempted from the jurisdiction of the new Authorities. Certain powers which were exercised by the County Council in the remainder of the County were also reserved to Quarter Sessions Boroughs of 10,000 or more inhabitants. The Local Government Act of 1894 supplemented the Act of 1888, by reorganizing the administration of Urban and Rural Districts within the Counties, placing their administrative bodies on a firmer basis, and adjusting their functions and those of the County Councils.

39. The last important change was made by the Education Act, 1902. Before that date, the service of education had been locally administered mainly by voluntary bodies supervised by a central Department. It is true that, in many large towns, School Boards existed, but they were not concerned except with the schools which they themselves had set up, save in so far as it was their duty to see that children of school age were receiving elementary education. Under the Act of 1902, Parliament, in setting up a national organization for the local administration of

education, availed itself of existing Local Authorities, County, Borough, and Urban District Councils, who were assigned definite functions in the scheme. It is not necessary at this point to describe the way in which these functions were divided amongst these Authorities. It is sufficient to note the fact that, as in former cases, measures were taken to meet a definite need, and to answer a definite purpose, and that the necessary changes were made to carry out this general idea. The change involved the abolition of School Boards, and the transfer of their duties, with additional functions, to other Local Authorities.

40. As has already been observed, the process of change and development is still going on. Since the Education Act of 1902, there has been no great measure of reorganization and no one statute which has allocated new functions to Local Authorities on a large scale. But fresh powers and duties of various kinds have been assigned to them, of which the care of mothers and young children, the institutional treatment of tuberculosis, and the institutional treatment of venereal diseases, are perhaps the most important instances. The choice of Authorities, among the various types which exist, for the administration of these various services, has, perhaps, not always been consistent or logical, but the essential characteristic of the process has been the steady development of the powers and duties of Local Authorities to meet the needs arising out of modern conditions of life. Local government and the Authorities administering it cannot stand still. They are continually adapting themselves, or being adapted by Parliament, to new functions which Parliament imposes upon them.

41. In addition to this characteristic, a disturbing agency is the shifting and growth of population. For many years, the country has become more urban in character, especially in certain districts, and Parliament, which has provided different forms of government for urban and rural areas, has made provision for altering the constitution of an area which has changed its character. Under the Local Government Act of 1888, means are provided by which Boroughs which have attained a population of 50,000 may, in proper cases, be constituted into County Boroughs, and so become independent of the County Council. Under the same Act, a part of the Rural District which has become urban in character may be constituted into a separate Urban District, and thus govern itself under the laws applicable to Districts of that character. In addition to these general provisions, it is open to any Local Authority to approach Parliament with a view to obtaining additional powers needed for better administration, or for an alteration of status and constitution. Such applications, especially those for additional powers, are by no means infrequent, and it is on the experience thus gained by particular areas that much of our public health and local government legislation has been built up.

42. The system is, in short, flexible and responsive to the facts of growth and change. No limit can be set to the further developments and new calls for adaptation which the future may bring forth. Parliament is now considering proposals for the reorganization of rating and valuation, and of the Authorities charged with those important functions, and it is understood that the Minister of Health has in contemplation a measure for the reorganization of the local administration of the Poor Laws.

43. The general conception of the local government of England and Wales indicated by this survey of its development in the course of less than a century has been present to our minds as governing the statement of facts relating to the system as it stands at the moment contained in the following Chapters.

## **CHAPTER I.—THE PRINCIPAL TYPES OF LOCAL AUTHORITIES, THEIR CONSTITUTION, AND THE PROCEDURE FOR ALTERING THEIR STATUS AND AREAS.**

### **SECTION 1.—THE PRINCIPAL TYPES OF LOCAL AUTHORITIES.**

#### **Parish Meetings.**

44. Under section 1 of the Local Government Act, 1894, there must be a Parish Meeting for every rural parish.

A rural parish is a place not situated within an Urban District for which a separate Poor Rate can be made or a separate Overseer appointed\*.

#### **Parish Councils.**

45. Under section 1 of the Local Government Act, 1894, (a) there must be a Parish Council for every rural parish which has a population of 300 or over; (b) the County Council must provide by Order for establishing a Parish Council in any rural parish which has a population of 100 or over if the Parish Meeting so resolve; (c) the County Council may make a similar provision, with the consent of the Parish Meeting, for any rural parish having a population of less than 100.

#### **Urban and Rural District Councils.**

46. The constitution of Urban and Rural District Councils is governed by sections 5 and 6 of the Public Health Act, 1875, and section 21 of the Local Government Act, 1894.

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\* Interpretation Act, 1889, section 5, and Local Government Act, 1894, section 1 (2).



47. The Act of 1875 provided that England\*, except the Metropolis, should for the purposes of that Act consist of Urban and Rural Districts subject to the jurisdiction of Local Authorities called Urban Sanitary and Rural Sanitary Authorities.

Urban Districts consisted of Boroughs, Improvement Act Districts, and Local Government Districts, in which the Authorities were, respectively, Town Councils, Improvement Commissioners, and Local Boards.

Rural Districts consisted of so much of the area of each Poor Law Union as was not included in any Urban District; and the Authorities in Rural Districts were the Boards of Guardians.

48. The Act of 1894 provided that Urban Sanitary Authorities (outside Boroughs) should in future be called Urban District Councils, and their districts, Urban Districts; and that for every Rural Sanitary District there should in future be a Rural District Council whose district should be called a Rural District.

#### **Town Councils.**

49. Section 6 of the Municipal Corporations Act, 1882, applies the Act to (a) every city and town to which the Municipal Corporations Act, 1835, applied on the 31st December, 1882, and (b) any town, district, or place the inhabitants of which are subsequently incorporated, and to which the provisions of the Municipal Corporations Acts are under the Act of 1882 extended by Charter.

By section 7, "Municipal Corporation" is defined as the body corporate constituted by the incorporation of the inhabitants of a Borough. Under section 8, this body bears the name of the Mayor, aldermen, and burgesses of the Borough, or in the case of a City, the Mayor, aldermen, and citizens of the City.

50. Under section 10, the Municipal Corporation of a Borough are capable of acting by the Council of the Borough, who consist of the Mayor, aldermen, and councillors, and the Council must exercise all powers vested in the Corporation by the Act of 1882 or otherwise.

51. The Council of a Borough are an Urban Sanitary Authority under sections 5 and 6 of the Public Health Act, 1875; and section 21 of the Local Government Act, 1894, preserves unaltered the style and title of the Council or Corporation of a Borough, while providing, as stated above (paragraph 48) that other Urban Sanitary Authorities shall have the new title of Urban District Council.

#### **COUNTY BOROUGH COUNCILS.**

52. The constitution of County Boroughs is governed by the Local Government Act, 1888. Section 31 provides that each of

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\* This expression includes Wales.

the 61 Boroughs named in the Third Schedule to the Act, being a Borough which on the 1st of June, 1888, either (a) had a population of not less than 50,000, or (b) was a County of itself, shall be an Administrative County of itself for the purposes of the Act.

Other Boroughs may be constituted into County Boroughs in accordance with the provisions of section 54.

53 The Council of a County Borough are an Urban Sanitary Authority under sections 5 and 6 of the Public Health Act, 1875; and in so far as the functions of a County Council had not otherwise been assigned to them, they were assigned by section 34 of the Act of 1888.

#### **County Councils.**

54. The constitution of County Councils is governed by sections 1 and 100 of the Local Government Act, 1888. Section 1 provides that a Council consisting of the Chairman, aldermen, and councillors, shall be established in every Administrative County as defined by the Act, and shall be entrusted with the management of the administrative and financial business of the County.

By section 100, " Administrative County " is defined as meaning the area for which a County Council are elected in pursuance of the Act, but not including (except where expressly mentioned) a County Borough.

### **SECTION 2.—ALTERATIONS OF THE STATUS OF LOCAL GOVERNMENT AREAS.**

#### **Formation and Dissolution of Parish Councils.**

55. Under section 39 of the Local Government Act, 1894, the Parish Meeting of a parish without a separate Parish Council may petition the County Council for the election of a Parish Council in that parish if the population has increased so as to justify the election.

The County Council may then, if they think proper, order the election of a Parish Council in the parish. The size of population which justifies the election of a Parish Council for a parish is governed by sections 1 and 38 (4) of the Act. Section 1, as already stated (paragraph 45 above), provides (a) that there shall be a Parish Council (i) for every rural parish which has a population of 300 or over, and (ii) for every rural parish which has a population of 100 or over if the Parish Meeting so resolve, provision for its establishment being made by an Order of the County Council; and (b) that there may be a Parish Council for any rural parish which has a population of less than 100 if the Parish Meeting consent and the County Council make an Order providing for the establishment of a Parish Council.

Section 38 (4) enables the Parish Meeting of any parish which has a less population than 200 to apply to the County Council

for a Parish Council, and requires the County Council to consider the application forthwith.

56. The joint effect of the relevant provisions of the Act is as follows :—

*Rural Parishes with  
Populations of—*

300 or over ...	Must have a Parish Council (section 1 (1)).
Over 200 but less than 300.	Must have a Parish Council if the Parish Meeting so resolve (section 1 (1) (a)), though the Parish Meeting have no express power to apply to the County Council under section 38 (4).
Less than 200 but 100 or over.	Must have a Parish Council if the Parish Meeting so resolve (section 1 (1) (a)), the Parish Meeting having express power to apply to the County Council under section 38 (4).
Less than 100 ...	May have a Parish Council with the consent of the Parish Meeting (section 1 (1) (a)).

57. Conversely, if the population of a parish with a separate Parish Council is less than 200 according to the last published Census for the time being, the Parish Meeting may petition the County Council for the dissolution of the Parish Council.

The County Council may then, if they think proper, order the dissolution of the Parish Council, and from the date of any such Order the Act of 1894 applies to the parish as to a parish not having a Parish Council.

If a petition for the dissolution of a Parish Council is rejected, another petition for the same purpose may not be presented within two years from the presentation of the previous petition.

58. County Councils are not required to submit Orders under section 39 to the Minister of Health\*, or to obtain his confirmation of such Orders.

#### GROUPING OF PARISHES AND DISSOLUTION OF GROUPS.

59. Under sections 1 (1) (b) and 38 of the Act of 1894, the County Council may, with the consent of the Parish Meetings concerned, provide by Order for grouping a parish with some neighbouring parish or parishes under a common Parish Council.

Parish Meetings in grouped parishes are retained; and on the application of the Parish Meeting for any parish included in a group, or of the common Parish Council, the County Council may make an Order dissolving the group and providing for the election of Parish Councils for the parishes in the group.

#### Formation of Rural Districts.

60. The alteration of the status of a parish or parishes to the status of a Rural District is governed by section 57 of the Local Government Act, 1888, which provides that whenever a County Council are satisfied that a *prima facie* case is made out as

\* It should be explained that throughout this Report we refer to the functions of the Local Government Board, which were transferred to the Minister of Health on the 1st July, 1919, as functions of the Minister of Health, except in any passages in which we have found it desirable to mark a distinction between action taken before, and action taken after, the 1st July, 1919, by the responsible Minister.

respects any parish for a proposal for the formation of a new Rural District, the Council may cause the prescribed inquiry\* to be made in the locality, the prescribed notice\* to be given both in the locality and to the Government Departments concerned, and such other inquiry and notices (if any) as they think fit; and, if satisfied that the proposal is desirable, may make an Order accordingly.

61. The Order has then to be submitted to the Minister of Health. If within six weeks† after public notice of the provisions of the Order made by the County Council, and the facilities for inspecting it, has been given by the Council, through an advertisement in a local newspaper circulating in the Districts and parishes affected, and by affixing the Order (or a statement of its effect) to the places in the Districts and parishes affected ordinarily used for the publication of notices,‡ the Council of any District affected, or a number of County electors registered in an affected District or ward, or (if the Order relates only to a parish) in a parish affected, who are not less than one-sixth of the total number of electors in the area, petition the Minister to disallow the Order, the Minister must cause a local inquiry to be made, and must then determine whether the Order is to be confirmed or not.

If a petition against the County Council's Order is not presented, or is presented but afterwards withdrawn, the Minister must confirm the Order. On confirming the Order he may make such modifications in it as he considers necessary for carrying into effect the objects of the Order.

Orders, when confirmed, must be laid before Parliament.

#### THE PRESCRIBED INQUIRY AND NOTICES BY THE COUNTY COUNCIL

62. The procedure laid down by the Local Government Acts (Inquiries and Notices) Order, 1921, in regard to local inquiries and notices relating to proposals for the formation of new Rural Districts, may be summarized as follows:

(a) A local inquiry, at which all persons interested may attend and be heard, must be held either by a Committee of the County Council, or by some person appointed by the Council for the purpose;

(b) The inquiry must be held either at some convenient place in one of the areas affected, or at some place in the neighbourhood of those areas which in the opinion of the Committee or person holding the inquiry is most convenient;

\* By the Local Government Acts (Inquiries and Notices) Order, 1921 [S.R.O., 1921, No. 1511.] See paragraphs 62 to 64 below.

† The period of three months specified in section 57 (3) of the Local Government Act, 1888, was reduced to six weeks by section 41 of the Local Government Act, 1894.

‡ This has been determined by the Minister of Health (Article 8 of the Local Government Acts (Inquiries and Notices) Order, 1921) to be the "first notice" specified in section 57 of the Local Government Act, 1888.

(c) The Council must give public notice of the purport of the proposal, and of the day, time, and place of the inquiry, at least ten days before the inquiry, both by advertisement in a local newspaper circulating in the Districts or parishes referred to in the proposal, and by posting copies of a notice containing the particulars at the places in each District or parish ordinarily used for the publication of notices;

(d) The Council must send a printed notice of the foregoing particulars at least ten days before the inquiry to the Council of any County District, to the Guardians of any Poor Law Union, the Parish Council or (where there is no Parish Council) Parish Meeting of every rural parish, the Overseers of every parish, and any Burial Board or Joint Committee for the purposes of the Burial Acts, who are affected by the proposal; and to any Joint Board or other Local Authority who in the opinion of the Council may be specially interested; and also to the Minister of Health, Registrar-General, Home Secretary, Minister of Agriculture and Fisheries, Board of Education, Commissioners of Customs and Excise, Public Works Loan Commissioners, and (if any County District or parish affected is situated in, or extends into, the Metropolitan Police District) the Receiver for the Metropolitan Police District.

#### CONSIDERATION OF THE REPORT OF THE LOCAL INQUIRY BY THE COUNTY COUNCIL.

63. The Council, after causing the local inquiry to be made, and making such other inquiry (if any) as they think fit, may, if satisfied that the proposal is desirable, make an Order which gives effect to it.

#### NOTICES OF ORDERS MADE BY THE COUNTY COUNCIL.

64. The notices of any Order made by the Council after the local inquiry which must be given in order to afford opportunities for lodging petitions against the Order are summarized in paragraph 61 above. Further, during the six weeks within which petitions may be lodged, the Clerk of the Council is required to supply a copy of the Order to any local government elector, owner, or ratepayer in any area affected, on payment of not more than sixpence. On or before the date of publication of the advertisement of the Order, copies of the Order must be sent to the Minister of Health and to the other Departments, and the Local Authorities, to whom notice of the inquiry had to be sent.

#### OPERATION OF THE FOREGOING PROVISIONS.

65. We were informed that the number of Orders for the formation of new Rural Districts made since 1888 was 26.\*

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\* Ministry of Health (Gibbon), M. 194 (I, 81).

### **Formation and Dissolution of Urban Districts.**

66. The first provision to be noticed under this head, though it remains unrepealed, has fallen into desuetude since the passage of the Local Government Act, 1888. It is contained in section 272 of the Public Health Act, 1875, which enabled the Local Government Board, in pursuance of resolutions of owners and ratepayers, to constitute places with known and defined boundaries situated in any Rural District or Districts into separate Local Government Districts.

A Local Government District was an area subject to the jurisdiction of a Local Board, that is, an Urban Sanitary District. Areas and Authorities of this type have since the passage of the Local Government Act, 1894, been called Urban Districts and Urban District Councils.

67. The conversion of a County District which is a Rural District, or any part of it, into an Urban District, is now in practice exclusively governed by section 57 of the Local Government Act, 1888, and the procedure to be followed under the section is identical with that which has been described in paragraphs 60 to 64 above.

The section also provides for the conversion, under the same procedure, of a County District which is an Urban District, or any part of it, into a Rural District.

### **OPERATION OF THE FOREGOING PROVISIONS.**

68. We were informed that the number of Orders for the formation of new Urban Districts made since 1888 was 265.\*

### **Incorporation of Municipal Boroughs.**

69. The alteration of the status of an Urban District to the status of a Municipal Borough is made in virtue of the exercise of Your Majesty's Prerogative by the grant of a Charter of incorporation. Part XI (sections 210 to 218) of the Municipal Corporations Act, 1882, and section 56 of the Local Government Act, 1888, define the procedure under which Your Majesty is advised by Your Privy Council in this exercise of the Prerogative.

### **PETITIONS FOR THE GRANT OF CHARTERS OF INCORPORATION.**

70. A petition for the grant of a Charter may be made to Your Majesty by the inhabitant householders of any town or towns or district.†

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\* Ministry of Health (Gibbon), M. 194 (I, 81).

† We do not deal separately in this Report with the wholly exceptional instances in which a district or part of a district other than an Urban District is constituted into a Municipal Borough: Privy Council Office (FitzRoy) Q. 3285 (II, 216).

*Preliminary Inquiries.*

71. If the Privy Council Office are consulted before the presentation of a petition to Your Majesty, they advise the intending petitioners that—

(a) The petition must be the petition of a preponderance of the total number of inhabitant householders, and the petitioners must between them have property of preponderating rateable value in relation to the total rateable value of the area\* ;

(b) The petition must include facts as to the growth, industries, etc., of the area† ;

(c) The petition must afford evidence that the area is well administered, has proper equipment, and possesses the necessary elements of a distinct civic life‡ ; and

(d) Petitions from areas with a population of less than 10,000 according to the last Census for the time being are not favourably entertained except in special cases.§

*Notices of Petition for Charter.*

72. Every petition for the grant of a Charter of incorporation is referred to a Committee of the Privy Council under section 211 (1) of the Municipal Corporations Act, 1882, for consideration and report.

We were informed that “for all practical purposes the Committee consists of the Lord President and the Minister of Health.”§

73. Under section 56 of the Local Government Act, 1888, notice of the petition must be given to the County Council of the County in which the place or places from whose inhabitants the petition comes is or are situate, and also to the Minister of Health.

The Privy Council Office, under section 211 (2) of the Municipal Corporations Act, 1882, must give notice of the presentation of the petition, and of the time when it will be considered by the Committee of the Privy Council, in the *London Gazette*, and otherwise in such manner as the Committee direct, for the purpose of making the petition known to all persons interested, at least a month before the petition is considered by the Committee.

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\* Privy Council Office (FitzRoy), M. 2, 4 (II, 213).

† Privy Council Office (FitzRoy), M. 4 (II, 213).

‡ Privy Council Office (Fitzroy), M. 3 (II, 213), Q. 3227-9 (II, 215). The only places with populations of less than 10,000 at the date of the grant, to which Charters have been granted since 1888, are Abergavenny (Charter 1899, population 9,150), and Fowey (Charter 1913, population 2,276): Privy Council Office (FitzRoy), M. 3 (II, 213), Q. 3239-40 (II, 215).

§ Privy Council Office (FitzRoy), Q. 3246 (II, 215).

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DECISION AS TO PRIMA FACIE CASE.

74. When the period of which notice is given in the *Gazette* has expired, the Committee of the Privy Council consider the petition; and, as required by section 56 of the Local Government Act, 1888, at the same time consider any representations made by the County Council concerned or by the Minister of Health.

If the Committee are satisfied on consideration that a prima facie case for granting the prayer of the petition is made out, it is their practice to direct a Commissioner to hold a local inquiry into the petition.\*

In coming to a decision on the question whether a prima facie case is made out, the Committee have regard to the extent to which the petition meets the requirements set out in paragraph 71 above, and they take into consultation at this stage the gentleman who, as Commissioner, will subsequently hold any local inquiry.†

LOCAL INQUIRY INTO A PETITION.

*Qualifications of the Commissioner.*

75. The Commissioner by whom the local inquiry into a petition for the grant of a Charter is held is a barrister with special knowledge of local government law and procedure. He is ordinarily in private practice, but at the same time is able, and was able before the war, to deal with all the petitions into which local inquiries are held. The average cost of a local inquiry is about £60, so far as the central Department are concerned; and the proceedings usually last from one to three days.‡

*Nature of the Inquiry.*

76. The Commissioner is instructed to investigate the statements contained in the petition, and to report upon the following points:—

(a) The number of inhabitant householders who have signed the petition, and the amount of their several assessments;

(b) The character of the district, with a view to establishing whether such elements of civic life exist as would entitle it to the form of government prayed for;

(c) The state of the local government and the expenses now attending it, and also the probable increase or diminution of such expenses, as well as the possible advantage or disadvantage that might be expected from the establishment of municipal government;

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\* Privy Council Office (FitzRoy), M. 6 (II, 213).

† Privy Council Office (FitzRoy), Q. 3272-4 (II, 216).

‡ Privy Council Office (FitzRoy), Q. 3259-69 (II, 216), Q. 3447-51 (II, 221), Q. 3461-2 (II, 221).



(d) The mode (in the event of its being deemed expedient to grant a Charter) of defining the limits of the corporate body and of dividing the Borough into wards;

(e) Whether a Scheme under the Municipal Corporations Acts, 1882 and 1885, would be required if the Charter were granted (see paragraphs 80 and 81 below).\*

#### CONSIDERATION OF THE COMMISSIONER'S REPORT.

77. When the Commissioner's report upon the inquiry is received, it is considered by the Privy Council, and is then forwarded, with any observations which may be necessary, to the Minister of Health.† The Committee of Council are not bound to defer to any views which the Minister of Health may express, but as a rule the advice tendered to Your Majesty to refuse or to grant a petition is tendered with the concurrence of all the central Authorities concerned.‡

#### PREPARATION OF DRAFT CHARTER AND SCHEME.

78. If it is decided that the application may proceed, the promoters are instructed to submit to the Privy Council Office a draft Charter and a draft Scheme, accompanied by a large-scale map showing the boundaries which would be assigned to the Borough and its wards.

79. The effect of the Charter, as stated in section 210 of the Municipal Corporations Act, 1882, is to create the town, towns, or district from which the petition is presented, or any part thereof specified in the Charter, with or without any adjoining place, a Municipal Borough, and to incorporate the inhabitants: and the same section provides that it shall be lawful for Your Majesty, by the Charter, to extend to the Municipal Borough so created and to the inhabitants so incorporated the provisions of the Municipal Corporations Acts. In practice it is an essential part of every Charter to apply these Acts to the Borough to which the Charter is granted.

80. The purpose of a Scheme, as stated in section 213 of the Act of 1882, is to provide for the adjustment of the powers, rights, privileges, franchises, duties, property, and liabilities of any existing Local Authority whose district comprises the whole or part of the area of the new Borough, either with or without any adjoining or other place, and also of any officer of such Local Authority.

81. Effect is also given by the Scheme to section 215 of the Act of 1882, which provides that the establishment of a new

\* Privy Council Office (FitzRoy), M. 6 (II, 213).

† Privy Council Office (FitzRoy), M. 7 (II, 213).

‡ The Local Government Board were not in favour of the incorporation of the following places to which Charters have been granted since 1888: Chatham (1890), Fowey (1913), Hemel Hempstead (1898), Southend (1892): Privy Council Office (FitzRoy), Q. 3372-4 (II, 219).

separate police force not consolidated with the County police force shall not be authorized by any scheme, or by the Municipal Corporations Acts, in any new Borough unless the district incorporated contained 20,000 inhabitants or upwards according to the last Census taken before the incorporation.

In practice, the consolidation of the police establishment of a new Borough having a population of 20,000 or upwards with the County police force is required as a condition of the grant of a Charter; so that the establishment of a separate police force does not follow upon the incorporation of a Municipal Borough, whatever the size of the population.\*

#### CONSIDERATION OF DRAFT CHARTER AND SCHEME.

82. The draft Charter and draft Scheme, when received from the promoters, are subjected to scrutiny before being settled by the Committee of Council. Copies of them are referred for consideration to the Home Office, Ministry of Health, Board of Trade, Board of Education, Ministry of Agriculture and Fisheries, Ministry of Labour, Ministry of Transport, and, if necessary, the Charity Commission. The maps furnished by the promoters are forwarded, with a copy of the draft Charter, to the Ordnance Survey Department of the Ministry of Agriculture and Fisheries for verification. The promoters are at the same time instructed to publish the draft Scheme, as submitted, in a newspaper circulating in the area in question, in conformity with section 214 (3) of, and the regulations contained in the Seventh Schedule to, the Municipal Corporations Act, 1882. The Committee of Council are required by these regulations to consider any objections to the draft Scheme by any Local Authority or persons affected.

When replies are received from the Departments concerned, any amendments that have been suggested in the draft Charter or draft Scheme are embodied in a letter to the promoters, and revised prints are called for. These prints are forwarded to the Law Officers for perusal and approval.†

#### APPROVAL OF DRAFT CHARTER.

83. When the Law Officers have reported upon and approved the draft Charter, it is forwarded to the Lord Chancellor for perusal and approval. When that approval is received, the draft Charter is ready to be submitted to Your Majesty in Council for approval.

When Your Majesty's approval has been signified, it falls to the Home Secretary to arrange for the promulgation of the Charter as approved.‡

\* Privy Council Office (FitzRoy), M. 9 (II, 214), Q. 3403-4 (II, 220); Home Office (Dixon), Q. 3757-9 (II, 244).

† Privy Council Office (FitzRoy), M. 11 (II, 214).

‡ Privy Council Office (FitzRoy), M. 14 (II, 214).

Sub-section (2) of section 216 of the Act of 1882 provides that every Charter must be laid before both Houses of Parliament after it is granted.

#### CONFIRMATION OF SCHEMES.

##### *Unopposed Schemes.*

84. Sub-section (3) of section 213 of the Municipal Corporations Act, 1882, requires a draft Scheme which has been settled by the Committee of Council under sub-section (1) of that section to be published in the *London Gazette*, and provides that the Scheme shall not become effective unless confirmed.

The regulations contained in the Seventh Schedule to the Act further require the Scheme, when settled, to be published by advertisement or otherwise as the Committee think best calculated for giving notice to all persons interested.

85. Sub-section (4) of the section provides that if no petition against a Scheme is received by the Committee within a month of its publication in the *Gazette*, or if any petition that has been presented is withdrawn, the Committee may submit the Scheme for confirmation either to Parliament or to Your Majesty in Council, and in the latter case Your Majesty may confirm the Scheme by Order in Council.

The Scheme, when confirmed, is forwarded to the promoters, who are also furnished with one copy of the certified map, the duplicate being retained by the Privy Council Office.\*

##### *Opposed Schemes.*

86. Sub-section (4) of section 213 further provides that if a petition against a Scheme is received by the Committee of Council within a month of its publication in the *Gazette* from any Local Authority affected†, or from not less than one-twentieth of the owners and ratepayers of the Borough, and is not withdrawn, the Scheme shall require confirmation by Parliament.

The Committee of Council may, if they think fit, submit an opposed Scheme to Parliament for confirmation, and are empowered by the regulations contained in the Seventh Schedule to the Act to introduce a Bill for the purpose.

The regulations further provide that—

- (a) Any such Bill shall be a Public Bill;
- (b) The Committee of Council may alter an opposed Scheme in such manner as they think proper before introducing a Bill to confirm it; and
- (c) If a petition is presented against any such Bill while the Bill is before Parliament, the Bill may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of a Private Bill.

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\* Privy Council Office (FitzRoy), M. 14 (II, 214).

† County Councils cannot oppose in Parliament, though they can at the local inquiry : Privy Council Office (FitzRoy), Q. 3432-5 (II, 221).

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 OPERATION OF THE FOREGOING PROVISIONS.

87. We were informed that the number of Municipal Boroughs incorporated since 1888 was 56\*, and that at the date of incorporation the figures of their populations were as follows :

Boroughs having a population				
Over 20,000	...	...	...	33
Between 10,000 and 20,000	...	...	...	21
Between 5,000 and 10,000	...	...	...	1
Under 5,000	...	...	...	1

**Constitution of County Boroughs.**

88. The alteration of the status of any Municipal Borough which is not one of the original 61 County Boroughs named in the Third Schedule to the Local Government Act, 1888, to the status of a County Borough, is governed by section 54 of the Act, which provides that whenever it is represented by the Council of any Borough to the Minister of Health that it is desirable to constitute any Borough having a population of not less than fifty thousand into a County Borough, the Minister shall, unless for special reasons he thinks that the representation ought not to be entertained, cause to be made a local inquiry, and may make an Order for the proposal contained in such representation, or for such other proposal as he may deem expedient, or may refuse such Order.

By sub-section (3) of section 54, it is enacted that any Order providing for the constitution of a Borough into a County Borough shall be provisional only, and shall not have effect unless confirmed by Parliament. The existing procedure under this provision is dealt with at length in Part II (Chapters VII and VIII) of this Report as falling within the first part of our terms of reference, and is accordingly not further described in this Chapter.

89. It should be noted that Town Councils can and do adopt the alternative procedure of including proposals for the constitution of Boroughs into County Boroughs in Private Bills which the Town Councils themselves submit directly to Parliament.

## COUNTY BOROUGHS CONSTITUTED SINCE 1888.

90. We were informed that the number of County Boroughs constituted since 1888 was 23, and that since that date two County Boroughs, Devonport and Hanley, had ceased to exist, the first on being amalgamated with Plymouth, and the second on being merged in the new County Borough of Stoke-on-Trent.†

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\* Privy Council Office (FitzRoy), Appendix XLV (II, 222).

† Ministry of Health (Gibbon), M. 216 (I, 94).

### **Union or Division of Administrative Counties.**

91. The formation of new Administrative Counties, by means of the union of any existing Administrative Counties, or the division of any existing Administrative County, may be effected under section 54 of the Local Government Act, 1888, on the application of any County Council, by the issue of a Provisional Order and its confirmation by Parliament.

The procedure under this provision would be similar to the procedure applicable to proposals for the constitution of County Boroughs, which is dealt with in Part II (Chapters VII and VIII) of this Report.

#### **OPERATION OF THE FOREGOING PROVISIONS.**

92. We were informed that since 1888, one Administrative County, the Isle of Wight, had been formed, as from the 1st April, 1890, by the division of the County of Southampton (Hampshire).\*

### **SECTION 3.—ALTERATIONS OF THE BOUNDARIES OF LOCAL GOVERNMENT AREAS.**

93. The provisions of the existing law contained in section 57 and section 54 of the Local Government Act, 1888, which have already been set out in their application to alterations of the status of local government areas, apply also to alterations of the boundaries of such areas.

#### **Parishes, Rural Districts, and Urban Districts.**

94. Alterations of the boundaries of parishes, Rural Districts, and Urban Districts are effected by Orders made by County Councils and confirmed by the Minister of Health under section 57 of the Act of 1888.

Proposals for these purposes are examined under the procedure already set out in the description of the manner in which proposals for the formation of Rural Districts under section 57 are dealt with.

#### **OPERATION OF THE FOREGOING PROVISIONS.**

95. We were informed that the numbers of Orders for the alteration of the boundaries of (a) Rural Districts, and (b) Urban Districts, made since 1888, were 134 and 297 respectively.†

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\* Ministry of Health (Gibbon), M. 199 (I, 82).

† Ministry of Health (Gibbon), M. 194 (I, 81).

**Boroughs, County Boroughs, and Administrative Counties.**

96. Alterations of the boundaries of Boroughs, County Boroughs, and Administrative Counties are effected by Provisional Orders made by the Minister of Health, and confirmed by Parliament, in accordance with section 54 of the Act of 1888. Proposals for these purposes are examined under the procedure which applies to proposals for the constitution of County Boroughs, and is dealt with, in its application both to the constitution and to the extension of the boundaries of County Boroughs, in Part II (Chapters VII and VIII) of this Report.

97. It should be noted that proposals for the alteration of the boundaries of County Boroughs and other Boroughs are frequently submitted by Town Councils directly to Parliament in Private Bills.

**ALTERATIONS OF THE BOUNDARIES OF BOROUGHs, COUNTY BOROUGHs, AND ADMINISTRATIVE COUNTIES SINCE 1888.**

98. We were informed that, since 1888, there had been 107 alterations, by extension, of the boundaries of Boroughs other than County Boroughs, and 109 similar alterations of the boundaries of County Boroughs.\*

99. Alterations in the boundaries of County Boroughs involve alterations in the boundaries of the Administrative Counties which previously included the areas brought within the boundaries of County Boroughs. We were informed that in addition to alterations of this kind in the boundaries of Administrative Counties, there had been many alterations of these boundaries since 1888, consisting of the adjustment of the boundaries of parishes or the transfer of parishes geographically detached from the County by the Council of which they were administered to the County in which they lay.†

**SECTION 4.—ELECTION, MEMBERSHIP, AND TENURE OF OFFICE OF LOCAL AUTHORITIES.**

100. The following summary will sufficiently indicate for the purposes of this Report the principal provisions of the existing law which govern the election, membership, and tenure of office of the Local Authorities of the several types.

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\* Ministry of Health (Gibbon), M. 216 (I, 94).

† Ministry of Health (Gibbon), M. 200 (I, 83).

<i>Electors.</i>	<i>Members.</i>	<i>Qualification of Members.</i>	<i>Term of Office of Members.</i>	<i>Chairman.</i>	<i>Term of Office of Chairman.</i>
PARISH MEETINGS.					
The meeting consists of local government electors, that is :					
(a) Men or women who are British subjects of full age (21) having 6 months' occupancy as owner or tenant of land or premises in the parish or elsewhere in the same Administrative County.					
(b) Married women not otherwise qualified who are 30 years of age, and whose husbands are qualified in respect of premises in which they both reside.					
PARISH COUNCILS.					
Local government electors.	The number (not being less than five nor more than fifteen) is fixed by the County Council.	1. Local government electors resident in the parish or within 3 miles of it for 12 months before the election. 2. Owners of property in the area.	Three years, all retiring together.	Elected at the annual meeting from members or persons qualified to be members.	One year.
RURAL DISTRICT COUNCILS.					
Local government electors.*	The number is fixed by the County Council.	1. Local government electors of a parish within the Union, or residents in the Union for 12 months before the election. 2. Owners of property in the area.	Three years, one-third retiring annually, unless the County Council make an Order providing for all to retire together.	Appointed at the annual meeting from members or persons qualified to be members.	One year
URBAN DISTRICT COUNCILS.					
Local government electors.	At least one councillor must be elected for each constituent parish with a population of not less than 300. The number may be altered by the County Council.	1. Local government electors. 2. Residents in the District for 12 months before the election. 3. Owners of property in the area.	Three years, one-third retiring annually, unless the County Council make an Order providing for all to retire together.	Appointed at the annual meeting from members or persons qualified to be members.	One year.

\* In four Districts which have less than five elected councillors the Minister of Health nominates the number of persons necessary to bring the number to five : Public Health Act, 1875, section 9 ; Ministry of Health (Gibbon), M. 59 (I, 31), Q. 1588-96 (I, 64), Q. 1608-17 (I, 65).

<i>Electors.</i>	<i>Members.</i>	<i>Qualification of Members.</i>	<i>Term of Office of Members.</i>	<i>Chairman.</i>	<i>Term of Office of Chair- man.</i>
TOWN COUNCILS. Local government electors.*	<i>Councillors.</i> — On the constitution of a Borough the number is fixed by the Charter. The number may be altered by Order in Council.	<i>Councillors.</i> — 1. Local government electors. 2. Owners of property, including Peers. 3. Persons having 12 months' residence in the area.	<i>Councillors.</i> — Three years, one-third retiring each year.	The Mayor is elected by the Council from members or persons qualified to be members.	One year.
	<i>Aldermen.</i> — One-third of the number of councillors.	<i>Aldermen.</i> — Fit persons elected by the Council from members or persons qualified to be members.	<i>Aldermen.</i> — Six years, one-half retiring every third year.		
COUNTY COUNCILS. Local government electors.	<i>Councillors.</i> — The number was determined in the first instance by the Local Government Board. The number may be altered by the Home Secretary.	<i>Councillors.</i> — 1. Local government electors. 2. Owners of property, including Peers. 3. Persons having 12 months' residence in the area.	<i>Councillors.</i> — Three years, all retiring together.	Elected by the Council from members or persons qualified to be members.	One year.
	<i>Aldermen.</i> — One-third of the number of councillors.	<i>Aldermen.</i> — Fit persons elected by the Council from members or persons qualified to be members.	<i>Aldermen.</i> — Six years, one-half retiring every third year.		

\* Three members of the Aldershot Town Council are appointed by the Army Council: War Office (II, 434). In Oxford and in Cambridge the University is specially represented on the Council: Ministry of Health (Gibbon), Appendix XXXI (I, 196).



## DISQUALIFICATIONS FOR ELECTION.

101. The following persons are disqualified for election or service as councillors on the Local Authorities of the several types :

<i>Local Authorities.</i>		<i>Persons Disqualified.</i>
Parish Councils, Rural District Councils, Urban District Councils.	Infants. Aliens. Persons who receive Poor Law relief within twelve months before election. Persons convicted and sentenced to imprisonment with hard labour without the option of a fine, or any greater punishment, within five years before election or since election. Bankrupts. Holders of any paid office under the Council. Any person who is concerned in any bargain or contract entered into with the Council, or participates in the profit of any such bargain or contract or of any work done under the authority of the Council.*	
Town Councils	... Infants. Aliens. Persons convicted and sentenced to imprisonment for more than twelve months, or with hard labour, or any greater punishment. The Recorder of the Borough. Elective auditors of the Borough. Holders of any office or place of profit (other than that of Mayor or Sheriff) in the gift or disposal of the Council. Officers of the regular forces on the active list. Any person who has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the Council.† Persons found guilty of corrupt practices or other offences against election law. Bankrupts.	

\* But (1) a person is not to be disqualified by reason of an interest in (a) the sale or lease of lands or a loan to the Council, or (b) a contract with the Council for the supply of road materials from lands which he owns or occupies, or (c) the transport of materials for road repairs in his own immediate neighbourhood, or (d) any newspaper in which any advertisement relating to the affairs of the Council is inserted, or (e) any contract with the Council as a shareholder in any joint stock company (provided that he does not vote on any question in which such company is interested) unless, in the case of a water company or other company established for carrying on works of a like public nature, this prohibition is dispensed with by the County Council; and (2) the disqualification for election to, or service on, a Parish Council on the ground of concern in or profit from a bargain or contract with the Council may be removed by the County Council if they are of opinion that such removal will be beneficial to the parish.

† But a person is not to be disqualified, or to be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in (a) any lease, sale or purchase of land, or any agreement for the same; or (b) any agreement for the loan of money, or any security for the payment of money only; or (c) any newspaper in which any advertisement relating to the affairs of the Borough or Council is inserted; or (d) any company which contracts with the Council for lighting or supplying with water or insuring against fire any part of the Borough; or (e) any railway company or any company incorporated by Act of Parliament or Royal Charter, or under the Companies (Consolidation) Act, 1908; or (f) any society registered under the Industrial and Provident Societies Acts.

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<i>Local Authorities.</i>	<i>Persons Disqualified.</i>
County Councils ...	The disqualifications are generally the same as those for Town Councils, but
	(a) Returning officers appointed by County Councils who do not receive any profit or remuneration in respect of the appointment, and
	(b) Persons having a share or interest not exceeding £50 in any year in contracts with County Councils for the supply of road material,
	are not disqualified.

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## CHAPTER II.—THE FUNCTIONS OF LOCAL AUTHORITIES OF THE SEVERAL TYPES.

### SECTION 1.—SOURCES OF POWERS OF LOCAL AUTHORITIES.

102. It will be sufficient for the purposes of this Report to refer briefly to the principal sources from which Local Authorities derive their powers, namely, Public General Acts and subordinate provisions made under those Acts, and Local Acts.

#### Public General Acts.

103. The effect of a Public General Act is to alter the general law. A Public General Act which relates to the functions of Local Authorities normally provides, therefore, for the exercise of functions by one or more types of Local Authority as a whole, or by Local Authorities of one or more of these types who possess other qualifying characteristics, such as having populations in their areas of certain sizes.

104. Many Public General Acts which affect the functions of Local Authorities enable Local Authorities and the Ministers concerned with the services in question to make provision, within the principles laid down by the Acts, for the detailed operation of the services.

This provision is made by means of subordinate or delegated legislation, and the action taken by Ministers may or may not require the specific approval of Parliament on each occasion.

Provision of this character may be made by any of the following methods :

- (a) Regulations and Orders may be made for purposes authorized by the Acts;
- (b) Provisional Orders, which require to be submitted to Parliament for legislative confirmation, may be made for purposes specifically authorized by the Acts;
- (c) Special Orders may be made with the express approval of both Houses of Parliament;
- (d) Byelaws may be made by Local Authorities and confirmed or allowed by Ministers.

### Local Acts.

105. The effect of a Local Act is to alter the law relating to some particular locality, or to confer rights on, or relieve from liability, some particular person or body of persons.

106. Bills for these purposes are introduced into Parliament by the Local Authorities empowered to do so under the Borough Funds Acts, 1872 and 1903, and the County Councils (Bills in Parliament) Act, 1903 (County Councils, Town Councils, and Urban District Councils). Before defraying the cost of promoting a Bill the Local Authority (unless otherwise authorized) must comply with the provisions of the Acts.

The important requirements of these Acts are that

(a) Special steps must be taken to give local publicity to the proposal and to see that it is duly considered and approved by the Council; and

(b) A Town Council or Urban District Council (but not a County Council) must obtain the consent of the electors to the proposal, and for this purpose are obliged to hold a town's meeting, and may be obliged to take a poll.

The effect of compliance with the requirements of the Acts is to give the Local Authority the right to incur expenditure on promoting the Bill. Rural District Councils, who are not covered by the Acts, cannot obtain this authority in advance; and, in the exceptional cases in which they have promoted Bills which became law, have secured it retrospectively by provision made in the Bill.\*

107. We were informed that the following local government services were frequently dealt with in Local Acts :†

Waterworks, gasworks, tramways, omnibuses, electricity, markets and other municipal undertakings.

Street improvements, whether in connexion with tramways or otherwise.

Parks and recreation grounds, and extended facilities for games or entertainments in them.

Acquisition of lands and retention, sale, or other disposal of lands.

Regulation of streets and buildings, *e.g.*, as to width of streets, building lines, licences for bridges over streets, corners of streets, forecourts, area of rooms, and extended powers of making byelaws.

Sewers and drains, *e.g.*, the requirement of separate provision for surface water and sewage, and the power to order houses to be drained by a combined drain.

Fire prevention.

Infectious disease and sanitary provisions.

Food regulations.

Additional provisions as to hackney carriages and omnibuses.

Rates and the consolidation of rates.

Borrowing powers and other financial provisions, especially with regard to the mode of borrowing and repayment of loans.

108 We do not deal further with local legislation in this Report except with specific reference to the methods by which proposals for the constitution or extension of County Boroughs are put forward. But the value of this means of enabling Local

\* Ministry of Health (Gibbon), Appendix VIII, paragraphs 9 and 10 (I, 152), Q. 855-7 (I, 33).

† Ministry of Health (Gibbon), Appendix VIII, paragraphs 1 to 15 (I, 152).

Authorities to seek special powers from Parliament to further the good government of the inhabitants of their areas must not be under-estimated. It was summed up as follows, in terms with which we concur, by a foreign observer over twenty years ago :\*

“ It is by Local Acts . . . that the first experimental improvements have as a rule been made, and it is from Local Acts that model clauses have been drawn and brought by Parliament into general use, either through the Clauses Acts, or through Adoptive Acts, or finally through the ordinary general statutes. Nor shall we be wrong in regarding this form of particular legislation as the most vigorous and fruitful factor in the development and extension of municipal government. There is no more important work done by Parliament.”

The stages by which important local government services (*e.g.*, public health services generally, and maternity and child welfare) have developed through their local to their national application have also been described to us during the hearing of the evidence.†

109. We have not before us any material on which to found a more detailed account of the subject-matter of local legislation, and we therefore proceed to consider how the more important functions assigned to Local Authorities under Public General Acts are distributed between Authorities of the several types.

In dealing with the functions which Local Authorities of the several types exercise under Public General Acts, it will be convenient to distinguish those functions the exercise of which is *obligatory* upon Local Authorities, that is, what the Authorities of the several types *must do*, from those functions the exercise of which by Local Authorities is *permissive*, that is, what the Authorities of the several types *may do*.

## SECTION 2.—FUNCTIONS OF PARISH MEETINGS AND PARISH COUNCILS.

### Functions of Parish Meetings.

#### OBLIGATORY FUNCTIONS.

##### *In Parishes without a Parish Council.*

110. In a parish in which there is no Parish Council, the Parish Meeting must exercise the following functions :

Appointment of Overseer.‡

Administration of parochial charities which are not ecclesiastical.§

\* Local Government in England : Joseph Redlich, edited by F. W. Hirst : 1903 : Vol. I, p. 363.

† Ministry of Health (Gibbon), Q. 16-17 (I, 3), Q. 94-7 (I, 5), Q. 114-20 (I, 6), Q. 835-9 (I, 33) (public health) ; Q. 829-34 (I, 33) (maternity and child welfare).

‡ Local Government Act, 1894, sections 5 (1) and 19 (5).

§ Local Government Act, 1894, sections 14 (1) and 19 (5).

*In Parishes with a Parish Council.*

111. In a parish in which there is a Parish Council, the Parish Meeting must further make provision for

Election of the Parish Council. §§

## PERMISSIVE FUNCTIONS.

*In Parishes without a Parish Council.*

112. In a parish in which there is no Parish Council, the Parish Meeting may

Provide allotments.\*

Exercise a veto on the stopping or diversion of public rights of way, or on a declaration that highways are unnecessary.†

Petition the Minister of Health against confirmation of an Order of the County Council altering the boundary of the parish.‡

Make representations to the County Council that the Rural District Council are in default

(a) under the Housing Act, 1925, with reference to (i) the provision of houses for the working classes, (ii) the execution of reconstruction schemes, (iii) the enforcement of provisions for securing repair, maintenance and sanitary conditions of houses, or (iv) the enforcement of provisions for Closing or Demolition Orders;§

(b) with reference to the provision of water supply or sewerage;||

(c) with reference to any provisions of the Public Health Acts which it is the duty of that Council to enforce;|| or

(d) with reference to the maintenance or repair of a highway.||

Appoint or revoke the appointment of an Assistant Overseer.¶

Undertake to pay loss on establishment of facilities by the Postmaster General.\*\*

Apply for a Provisional Order authorizing the construction of a tramway.††

Exercise any other power exercisable by a Parish Council under the Local Government Act, 1894, which the County Council confer upon the Parish Meeting.‡‡

§§ Local Government Act, 1894, sections 2 (1) and 3 (1)

\* Small Holdings and Allotments Act, 1908, sections 23 (1) and 61 (4).

† Local Government Act, 1894, sections 13 (1) and 19 (8).

‡ Local Government Act, 1894, section 36 (7).

§ (i) Housing Act, 1925, sections 73, 74 and 76.

(ii) Ibid., section 52.

(iii) Ibid., section 23.

(iv) Ibid., section 25.

|| Local Government Act, 1894, sections 16 and 19 (8).

¶ Local Government Act, 1894, sections 5 (1) and 19 (5).

\*\* Post Office Act, 1908, section 49.

†† Tramways Act, 1870, sections 3 and 4, Schedule A, Part I.

‡‡ Local Government Act, 1894, section 19 (10).

*In Parishes with a Parish Council.*

113. In a parish in which there is a Parish Council, the Parish Meeting may further

Give or refuse consent to any proposal which involves levying a rate of more than 3d. in the £, for any financial year, or any expenditure which involves raising a loan.\*

Give or refuse consent to the sale or exchange of land vested in the Parish Council.†

Adopt the Acts‡ enabling them to provide

- (a) lighting or fire engines;
- (b) burial grounds;
- (c) public libraries;§
- (d) public baths and washhouses and open bathing places; and
- (e) recreation grounds.

**Functions of Parish Councils.****OBLIGATORY FUNCTIONS.**

114. A Parish Council must exercise the functions enumerated in paragraph 110 above. That is to say, a Parish Council on its formation takes over the duties of the Parish Meeting except as to the election of the Council.

**PERMISSIVE FUNCTIONS.**

115. A Parish Council may, first, exercise the functions enumerated in paragraph 112 above. That is to say, a Parish Council on its formation takes over such powers of the Parish Meeting as are not expressly reserved to the Meeting.

116. A Parish Council may, secondly, exercise functions which a Parish Meeting are not empowered to exercise. They may

Provide land and buildings for public offices and meetings.||

Acquire land for open spaces, recreation grounds, and public walks.¶

Maintain and repair public footpaths, not being footpaths at the side of a public road.\*\*

Acquire rights of way.||

Exercise the powers of Urban Authorities under the Public Health Acts with respect to recreation grounds, village greens, open spaces, or public walks.††

\* Local Government Act, 1894, section 11 (1).

† Local Government Act, 1894, section 8 (2).

‡ Local Government Act, 1894, section 7 (1).

§ Unless the Public Libraries Acts have been adopted by the County Council for an area which includes the parish: Public Libraries Act, 1919, section 1 (2).

|| Local Government Act, 1894, section 8 (1).

¶ Local Government Act, 1894 section 8 (1) (b); Open Spaces Act, 1906, sections 1 and 9.

\*\* Local Government Act, 1894, section 13 (2).

†† Local Government Act, 1894, section 8 (1). The relevant provisions of the Public Health Acts are: Public Health Act, 1875, section 164 (places of public recreation); Public Health Acts Amendment Act, 1890, section 44 (parks and pleasure grounds); Public Health Act, 1875, sections 183-6 (byelaws).

Accept and hold gifts of property.§§  
 Utilize wells, etc., in the parish, but so as not to interfere with the rights of any corporation or person.§§  
 Deal with offensive ponds and ditches, but so as not to interfere with any private right or the sewage or drainage works of any Local Authority.§§  
 Provide fire engines and fire escapes.||||  
 Execute Adoptive Acts adopted by a Parish Meeting.¶¶  
 Apply for the powers of Urban Authorities under the Public Health Acts to be conferred on the Rural District Council in respect of the parish or part of the parish.\*\*\*  
 Contribute to the expenses of the Harbour Authority of a small harbour.†††

### SECTION 3.—FUNCTIONS OF RURAL DISTRICT COUNCILS.

#### Functions of all Rural District Councils.

##### OBLIGATORY FUNCTIONS.

117. A Rural District Council must, first, exercise the following functions :

##### *As to Public Health :*

Inspection of the area for detection and abatement of nuisances.\*

Securing the proper sanitary condition of all premises.†

Provision of sewerage.‡

Notification and prevention of infectious diseases.§

Enforcement of statutory provisions prohibiting the sale of tuberculous milk.||

Registration of dairies, cowsheds, and milkshops.¶

Control of retail bakehouses.\*\*

Securing the proper sanitary condition of workshops.††

Inspection and regulation of canal boats.‡‡

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§§ Local Government Act, 1894, section 8 (1).

|||| Local Government Act, 1894, section 6 (1) (c) (ii).

¶¶ Local Government Act, 1894, sections 7 (5) and 53.

\*\*\* Local Government Act, 1894, section 25 (7).

††† Fishery Harbours Act, 1915, section 3.

\* Public Health Act, 1875, section 92.

† Housing of the Working Classes Act, 1885, section 7.

‡ Public Health Act, 1875, section 15.

§ Infectious Disease (Notification) Acts, 1889 and 1899 ; Public Health Act, 1875, sections 120 and 130 ; Factory and Workshop Act, 1901, sections 109 and 110.

|| Milk and Dairies (Amendment) Act, 1922, sections 5 and 10.

¶ Contagious Diseases (Animals) Acts, 1878 and 1886 ; Milk and Dairies (Amendment) Act, 1922, section 2.

\*\* Factory and Workshop Act, 1901, section 1.

†† Factory and Workshop Act, 1901, section 131.

‡‡ Canal Boats Acts, 1877 and 1884.

*As to Public Health (contd.) :*

Enforcement of the Rag Flock Act, 1911.\*  
Registration, inspection, and regulation of common lodging-houses.†

Notification of births.‡

Making arrangements for the treatment of tuberculosis.§

Requiring undrained houses to be drained, securing that houses are not built without privy accommodation, and enforcing provision of privy accommodation for houses.||

*As to Water Supply :*

Securing that every dwelling-house has a water supply available within a reasonable distance.¶

*As to Housing :*

Provision of houses for the working classes.\*\*

Closing or demolition of unfit houses.††

Prevention of overcrowding.‡‡

*As to Roads :*

Maintenance and repair of public roads, other than main roads, and of public bridges, not being County bridges.§§

*As to Commons and Open Spaces :*

Protection of rights of way and roadside wastes.||||

*As to Other Services :*

Licensing game dealers, gang masters, knackers' yards, passage brokers, emigrant runners, pawnbrokers, petroleum hawkers, use of steam whistles.¶¶

Securing better provision for prevention of fire and means of escape in premises where celluloid or cinematograph films are stored or used.\*\*\*

\* Rag Flock Act, 1911, section 1 (5).

† Public Health Act, 1875, sections 76, 78 and 80 to 84.

‡ Unless the County Council have adopted the Notification of Births Act, 1907, before the 1st September, 1915, either for the whole Administrative County or for the District, and the Minister of Health has not subsequently made an Order on the application of the District Council declaring that Council to be the Local Authority: Notification of Births Act, 1907, section 2 (4); Notification of Births (Extension) Act, 1915, section 1 (1).

§ Public Health Act, 1875, section 130; Public Health (Tuberculosis) Regulations, 1912; Public Health (Prevention and Treatment of Disease) Act, 1913, section 3.

¶ Public Health Act, 1875, sections 23, 35 and 36.

¶¶ Public Health (Water) Act, 1878, section 3.

\*\* Housing Act, 1925, sections 60, 61 and 80 (1) (c).

†† Housing Act, 1925, sections 11 and 14.

‡‡ Public Health Act, 1875, sections 91 and 92.

§§ Local Government Act, 1894, section 25.

|||| Local Government Act, 1894, section 26.

¶¶ Local Government Act, 1894, section 27; Steam Whistles Act, 1872, sections 2 and 3.

\*\*\* Celluloid and Cinematograph Film Act, 1922, sections 4 and 9.



## PERMISSIVE FUNCTIONS.

118. A Rural District Council may\*, secondly, exercise the following functions. The functions marked (o) become obligatory upon the Council if they are required to exercise them by an Order of the Minister of Health.

*As to Public Health :*

- (o) Provision for removal of house refuse.\*
- (o) Provision for cleansing of earth-closets, privies, ashpits, and cesspools.\*
- (o) Provision of mortuaries and cemeteries.†
- Provision of hospitals for infectious diseases.§
- Cleansing and disinfection of verminous persons.‡
- Provision of crematoria.¶
- Inspection of foods for human consumption.\*\*
- Making byelaws as to cleansing of earth closets, privies, ashpits, and cesspools, foot-ways and pavements, removal of house refuse‡‡ ; tents, vans and sheds‡‡‡ ; hop-pickers§§§ ; and fruit-pickers.‖‖‖
- Making byelaws as to houses let in lodgings.¶¶
- Making byelaws as to licensing, inspection, and sanitary condition of seamen's lodging houses.\*\*\*

*As to Water Supply :*

- Provision of water supply.†††

*As to Housing :*

- Requiring owners to put working class houses into habitable condition.††††
- Removal of obstructive buildings.§§§§
- Formulation and execution of schemes for the reconstruction of unhealthy buildings covering a small area.‖‖‖‖
- Promoting and assisting public utility societies.¶¶¶¶

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\* Public Health Act, 1875, section 42.

† Public Health Act, 1875, section 141 (mortuaries) ; Public Health (Interments) Act, 1879, section 2 (cemeteries).

§ Public Health Act, 1875, section 131.

‡ Cleansing of Persons Act, 1897, sections 1 and 2.

¶ If the Council maintain a cemetery : Cremation Act, 1902, sections 2 and 4.

\*\* Public Health Act, 1875, sections 116 to 119 ; Public Health (Regulations as to Food) Act, 1907.

†† Public Health Act, 1875, section 44.

††† Housing of the Working Classes Act, 1885, section 9.

§§§ Public Health Act, 1875, section 314.

‖‖‖ Public Health (Fruit Pickers Lodgings) Act, 1882.

¶¶¶ Public Health Act, 1875, section 90 ; Housing of the Working Classes Act, 1885, section 8.

\*\*\* If the District includes a sea-port : Merchant Shipping Act, 1894, section 214.

†††† Public Health Act, 1875, section 51.

‡‡‡ Housing Act, 1925, section 3.

§§§§ Housing Act, 1925, section 19.

‖‖‖‖ Housing Act, 1925, sections 35, 37 and 42.

¶¶¶¶ Housing Act, 1925, section 70.

*As to Town Planning :*

(o) Preparation and administration of town planning scheme.¶

*As to Commons and Open Spaces :*

Purchase of common rights, etc.\*\*

Making schemes for the regulation and management of commons, carrying out improvements, and making byelaws for prevention of nuisances.††

*As to Roads :*

Construction of new roads, and improvement of roads.\*

*As to Other Services :*

Provision of electricity supply.†

Inspection of electric lighting.‡

Establishment of superannuation fund for officers or servants.§

Undertaking to pay loss on establishment of facilities by the Postmaster General.||

Making application for the abolition of a fair or the alteration of the days on which it may be held.‡‡

**Permissive Functions which may be Exercised in Rural Districts either (1) by the Rural District Council or (2) by the County Council.**

119. Thirdly there are certain functions which in Rural Districts may be exercised alternatively

(a) by the Rural District Councils of some or all of the Districts; or

(b) by the County Council over some or all of the Districts.

These functions are as follows :

*As to Public Health :*

Provision for maternity and child welfare. §§

¶ Town Planning Act, 1925, section 13.

\*\* Commons Act, 1876, section 8; Local Government Act, 1894, section 26 (2).

†† Commons Act, 1899, section 1.

\* Public Health Act, 1875, sections 144-8; Local Government Act, 1894, section 25.

† Electric Lighting Act, 1882, sections 4 and 31, and Schedule.

‡ Electric Lighting (Clauses) Act, 1899, section 35.

§ If the Rural District Council, either alone or with any other Local Authorities with whom they combine, employ not less than 50 officers or servants in established posts: Local Government and other Officers' Superannuation Act, 1922, sections 3 and 5.

|| Post Office Act, 1908, section 49.

‡‡ Fairs Acts, 1871 and 1873; Local Government Act, 1894, section 27 (1) (e).

§§ Maternity and Child Welfare Act, 1918, section 1.

*As to Housing :*

Undertaking to administer the Small Dwellings Acquisition Acts.†

*As to Parks and Open Spaces :*

Provision and maintenance of open spaces.‡

*As to Other Services :*

Acquisition of ferries.§

Making application for an Order authorizing a light railway.||

Making or opposing applications to Railway and Canal Commission and Railway Rates Tribunal as to railway services, etc.¶

Making application for an Order investing the Council with urban powers under section 276 of the Public Health Act, 1875.\*\*

Contributing to the expenses of the Harbour Authority of a small harbour.††

**Permissive Functions with respect to which (1) Rural District Councils have Jurisdiction in their respective Areas, and (2) the County Council have Jurisdiction throughout the Administrative County.**

120. Fourthly, there are certain functions which may be exercised concurrently both

(a) by Rural District Councils within the areas of their respective Districts ; and

(b) by the County Council throughout the Administrative County.

These functions are as follows :

*As to Public Health :*

Prevention of pollution of rivers.‡‡

Making applications under the Water Undertakings (Modification of Charges) Act, 1921.§§

† The exercise of this function is subject to the consent of the County Council if the population of the District was less than 10,000 according to the last Census for the time being : Small Dwellings Acquisition Act, 1899, section 9.

‡ Open Spaces Act, 1906, sections 1 and 9.

§ Ferries (Acquisition by Local Authorities) Act, 1919, section 1.

|| Light Railways Act, 1896, section 2.

¶ Railways Act, 1921, sections 16 (1), 38 (6) and 78.

\*\* Public Health Act, 1875, section 276 ; Local Government Act, 1894, section 25.

†† Fishery Harbours Act, 1915, section 3.

‡‡ Rivers Pollution Prevention Act, 1876, section 8 (Authorities other than County Councils) ; Local Government Act, 1888, section 14 (County Councils).

§§ Water Undertakings (Modification of Charges) Act, 1921, sections 1 (2) and 3 (1).

**Permissive Functions of Councils of Rural Districts having Populations of Certain Sizes.**

121. The Council of a Rural District which has a population of 50,000 or over according to the published returns of the last Census for the time being may exercise the following function :

Provision of financial assistance to a Joint Electricity Authority whose district includes the whole or part of the Rural District.\*

**Functions of Urban Sanitary Authorities which may be Assigned to Rural District Councils.**

122. In addition to the functions already enumerated, there is a number of functions with which all Rural District Councils, or any Rural District Council, may be invested by Order of the Minister of Health.

FUNCTIONS WHICH MAY BE ASSIGNED TO RURAL DISTRICT COUNCILS GENERALLY.

*Under Section 25 of the Local Government Act, 1894.*

123. Sub-section (5) of section 25 of the Local Government Act, 1894, provides that Rural District Councils shall have such powers, duties, and liabilities of Urban Sanitary Authorities under the Public Health Acts or any other Acts, and that such provisions of any of those Acts relating to Urban Districts shall apply to Rural Districts, as the Minister of Health by General Order directs.

By sub-section (6) every such General Order is to be laid before Parliament forthwith.

*Operation of this Provision.*

124. No such General Order had been made previous to the date in 1923 when evidence on this matter was taken before us.

A General Order of the 20th December, 1924,† invested all Rural District Councils with the powers of Urban Sanitary Authorities for the purpose of the regulation of slaughter-houses.

FUNCTIONS WHICH MAY BE ASSIGNED TO PARTICULAR RURAL DISTRICT COUNCILS.

*Under Section 276 of the Public Health Act, 1875.*

125. Under section 276 of the Public Health Act, 1875, a Rural District Council, and under sub-section (7) of section 25 of the

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\* Electricity (Supply) Act, 1922, section 5 (1). But if the Council are authorized undertakers within the district of any Joint Electricity Authority, or receive or intend to receive a supply from the Joint Electricity Authority, they may provide financial assistance irrespective of the population of the District.

† The Rural District Councils (Slaughter-houses) Order, 1924 [S.R.O. 1431, 1924].

Local Government Act, 1894, a County Council, or with respect to the whole or part of a parish, a Parish Council, may apply to the Minister of Health for an Order which declares any provisions of the Act of 1875 in force in Urban Districts to be in force in the Rural District (or parish or part of a parish).\*

Under this provision a Rural District Council may obtain the powers of an Urban Sanitary Authority to exercise such functions as are covered by the sections of the Act of 1875 enumerated below :

<i>Section</i>	<i>As to</i>
39 ...	Public necessities.
66 ...	Fire-plugs.
112 ...	Restriction on establishment of offensive trades.
150 ...	Paving, etc., of private streets.
154 ...	Purchase of premises for improvement of streets.
160 ...	Naming streets and numbering houses, improving line of streets and removing obstructions, etc..
161 ...	Lighting the district.

126. Orders made by the Minister under section 276 must be published in the *London Gazette* or in such other manner as he may direct. An Order may invest the applicant Authority with all or any of the powers and duties of an Urban Authority under the Act, either unconditionally or subject to conditions to be specified by the Minister.

*Operation of this Provision.*

127. We were informed that under this procedure powers of Urban Sanitary Authorities are frequently conferred upon Rural District Councils.†

*Under Section 5 of the Public Health Acts Amendment Act, 1890.*

128. This Act is divided into Parts, of which the first contains general provisions, Part Two relates to telegraph, etc., wires, Part Three contains sanitary and other provisions, Part Four relates to music and dancing, and Part Five to the issue of stock by Local Authorities.

A Rural District Council cannot put Part Two, Part Four, or Part Five of the Act into operation as a whole by adoption.

129. A Rural District Council can put the provisions of Part III specified in section 50 of the Act as being applicable in Rural Districts into operation as a whole by adoption.

These provisions are as follows :

<i>Section</i>	<i>As to</i>
20 ...	Sanitary conveniences for public accommodation.
22 ...	Sanitary conveniences for manufactories, etc..
23 ...	Building byelaws (part).

\* Section 276 also confers the power of application upon (a) ratepayers assessed to at least one-tenth of the net rateable value of the Rural District, and (b) contributory places within the Rural District ; but the position of such applicants need not be further explored for the present purpose.

† Ministry of Health (Gibbon), Appendix X (I, 155).

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<i>Section</i>	<i>As to</i>
24 ...	Use of rooms over privies, etc..
26 (1) ...	Byelaws as to removal of offensive matter.
27 ...	Cleansing common courts and passages.
34 ...	Erection of hoards during progress of buildings, etc..
35 ...	Repair of cellars under streets.
36 ...	Means of ingress to and egress from places of public resort.
37 ...	Safety of platforms, etc., erected for use on public occasions.
38 ...	Byelaws for prevention of danger from whirligigs, shooting galleries, etc..
39 ...	Refuges, etc., in streets.
40 ...	Cabmen's shelters.
42 ...	Statues and monuments.
43 ...	Trees in roads.
44-45 ...	Parks and pleasure grounds.

130. If a Rural District Council wish to be empowered to exercise functions under Part Two, Part Four, or Part Five, or under some, but not all, of the provisions of Part Three specified in section 50, or under provisions of Part Three not specified in section 50, such as those of

<i>Section</i>	<i>As to</i>
16 ...	Passing injurious matters into sewers ;
17 ...	Turning chemical refuse, steam, etc., into sewers ;
18 ...	Making communications with, or altering, etc., drains and sewers ;
19 ...	Dealing with complaints of nuisances from drains ;
21 ...	Sanitary conveniences used in common ;
23 ...	Building byelaws ;
25 ...	Erection of buildings on ground filled up with offensive matter ;
26 (2) ...	Byelaws relating to removal of house refuse ;
28 ...	Inspection of foods ;
32 ...	Notice of cases of infectious disease in common lodging-houses ;
33 ...	Use of buildings as dwelling-houses ;
47 ...	Throwing cinders, etc., into streams ;
48 ...	Defacing notices put up by the Council ;
49 ...	Enabling the Council to apply to the Minister of Health for Orders declaring expenses to be special expenses,

they can apply\* to the Minister in the same way as under section 276 of the Act of 1875, and he may make an Order giving effect to their application. So, too, a County Council, or, with respect to the whole or part of a parish, a Parish Council, may apply in virtue of section 25 (7) of the Local Government Act, 1894.

*Operation of this Provision.*

131. We were informed that under this procedure powers of Urban Sanitary Authorities are frequently conferred upon Rural District Councils.†

*Under Section 4 of the Private Street Works Act, 1892.*

132. Under the same procedure, a Rural District Council may apply\* to the Minister to be empowered to exercise functions

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\* Application may also be made by ratepayers assessed to at least one-tenth of the net rateable value of the Rural District.

† Ministry of Health (Gibbon), Appendix X (I, 155).

under this Act, which relates to the making up of private streets by the Local Authority, the apportionment of the expenses of such work, and the conversion of private streets into public highways; and the Minister may make an Order giving effect to their application.

So, too, a County Council, or, with respect to the whole or part of a parish, a Parish Council, may apply in virtue of section 25 (7) of the Local Government Act, 1894.

OTHER FUNCTIONS WHICH MAY BE ASSIGNED TO RURAL DISTRICT COUNCILS BY ORDER OF A CENTRAL AUTHORITY.

*Under the Public Health Acts Amendment Act, 1907.*

133. This Act is divided into Parts, of which the first contains general provisions, Parts Two to Six relate to streets and buildings, sanitary matters, infectious diseases, common lodging-houses, and recreation grounds respectively, Parts Seven, Eight and Nine to police, fire brigades, and sky signs respectively, and Part Ten to miscellaneous matters (*e.g.*, byelaws as to bathing places, provision of life-saving appliances, and power to license pleasure boats).

The Minister of Health\* may on the application of a Rural District Council declare any Part or any section of the Act to be in force either in the whole District or in specified contributory places within it.

By this means a Rural District Council may obtain authority to exercise such functions as are covered by the following sections of the Act :

<i>Part or Section</i>	<i>As to</i>
Part II ...	Streets and buildings.
17 ...	Varying position or direction and fixing beginning and end of new streets.
23 ...	Definition of new buildings.
27 ...	Regulation of temporary buildings.
Part III ...	Sanitary provisions.
38 ...	Regulation of connexion of old drains with sewers.
46 ...	Requiring cesspools, disused wells, etc., to be filled up.
50 ...	Provision of ambulances for cases of accident.
Part IV ...	Infectious diseases.
52 ...	Preventing infected persons from following their occupation.
53 ...	Requiring dairymen to furnish lists of their sources of supply.
54 ...	Forbidding infected clothes to be sent to laundries.
63 ...	Prohibiting conveyance of infected persons in public vehicles.
67 ...	Provision of nursing attendance.

*Operation of this Provision.*

134. We were informed that under this procedure many Orders have been issued.†

\* Or, so far as applications for provisions relating to police, fire brigades, or sky signs to be put in force are concerned, the Home Secretary.

† Ministry of Health (Gibbon), Appendix X (I, 155).

## SECTION 4.—FUNCTIONS OF URBAN DISTRICT COUNCILS.

### Functions of all Urban District Councils.

#### OBLIGATORY FUNCTIONS.

135. An Urban District Council must, first, exercise the functions enumerated in paragraph 117 above, except that they are not necessarily obliged to secure that every dwelling-house has a water supply available within a reasonable distance.\* That is to say, every duty of a Rural District Council is, with this exception, also a duty of an Urban District Council.

136. An Urban District Council must, secondly, exercise the following functions which are not among the duties of Rural District Councils :

Registration of war charities.†

Administration of the Fabrics (Misdescription) Act, 1913.‡

Provision of offices for transacting their business.§

#### PERMISSIVE FUNCTIONS.

137. An Urban District Council may, first, exercise the functions enumerated in paragraph 118 above. That is to say, every power of a Rural District Council is also a power of an Urban District Council.

138. An Urban District Council may, secondly, exercise the following functions which are not among the powers of Rural District Councils generally.

The functions marked (o) become obligatory upon the Council if they are required to exercise them by an Order of the Minister of Health.

*As to Public Health :*

(o) Cleansing of streets.||

Making byelaws as to new streets and buildings, including byelaws as to the approval of building plans.¶

Making byelaws as to keeping of animals,\*\* drains,†† slaughter-houses,‡‡ nuisances from snow, rubbish, etc.\*\*

Supervision of offensive trades.§§

Provision of slaughter-houses.‡‡

Lighting||| and watering¶¶ streets.

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\* But an Urban District Council may, under section 11 of the Public Health (Water) Act, 1878, be invested with this duty by Order of the Minister of Health.

† War Charities Act, 1916, section 2.

‡ Fabrics (Misdescription) Act, 1913, section 5.

§ Public Health Act, 1875, section 197.

¶ Public Health Act, 1875, section 42.

¶ Public Health Act, 1875 section 157; Public Health Acts Amendment Act, 1890, section 23 (1) and (2).

\*\* Public Health Act, 1875, section 44.

†† Public Health Acts Amendment Act, 1890, section 23 (2).

‡‡ Public Health Act, 1875, section 169.

§§ Public Health Act, 1875, sections 112, 113 and 115.

|| Public Health Act, 1875, section 161.

¶¶ Public Health Act, 1875, section 42.



*As to Public Health (contd.):*

Provision of baths and washhouses.§ §  
 Provision of sanitary conveniences.¶ ¶ ¶

*As to Housing:*

Formulation and execution of schemes for the improvement of unhealthy areas.\*

*As to Education:*

Supplying or aiding the supply of higher education (at a cost not exceeding in any year the amount of the produce of a penny rate).†

*As to Commons and Open Spaces:*

Provision of public walks and pleasure grounds.‡

*As to Roads:*

Making up and taking over of private streets.§  
 Construction and improvement of streets.¶  
 Improving the line of streets, naming streets and numbering houses, taking precautions against dangerous buildings, etc.¶  
 Making claims to maintain main roads within the District.\*\*

*As to Agriculture:*

Provision of allotments††, and allotment gardens.††

*As to Other Services:*

Provision of market places.¶¶  
 Provision of fire engines, etc..\*\*  
 Provision of a public telephone system.†††  
 Making contributions towards cost of new Post Offices.†††  
 Execution of the Burial Acts (where the District Council act as a Burial Board).§ § §

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§ § Public Health Act, 1875, section 10.  
 ¶ ¶ Public Health Act, 1875, section 39.  
 \* Housing Act, 1925, section 35.  
 † Education Act, 1921, sections 3 (2) and 70 (2).  
 ‡ Public Health Act, 1875, section 164.  
 § Public Health Act, 1875, sections 150 and 152; or alternatively by adoption of the Private Street Works Act, 1892 (*see* sections 2 and 25 of that Act).  
 ¶ Public Health Act, 1875, section 154.  
 ¶ Towns Improvement Clauses Act, 1847, sections 64-83; Public Health Act, 1875, section 160.  
 \*\* Local Government Act, 1888, section 11 (2).  
 †† Small Holdings and Allotments Act, 1908, section 23.  
 †† Allotments Act, 1922, section 13.  
 ¶¶ Public Health Act, 1875, section 166.  
 \*\*\* Public Health Act, 1875, sections 66 and 171.  
 ††† Telegraph Act, 1869, section 5; Telegraph Act, 1899, section 2.  
 ††† Post Office Act, 1908, section 49 (1).  
 § § § Burial Acts, 1852, 1853, 1857; Sanitary Act, 1866; Local Government Act, 1894, section 62.

*As to Other Services (contd.) :*

Making byelaws as to bathing,\*\* hackney carriages,\*\* markets††, omnibuses††.

Making application for a Provisional Order authorizing the construction of a tramway.§§

Licensing tramway carriages and employees|||, boats and boatmen.¶¶

Advertising the District as a health resort or watering place.\*\*\*

Manufacturing and supplying gas.†††

Acquisition of harbours or piers.†††

**Permissive Functions which may be Exercised in Urban Districts either (1) by the Urban District Council or (2) by the County Council.**

139. Thirdly, there are certain functions which in Urban Districts may be exercised alternatively

(a) by the Urban District Councils of some or all of the Districts, or

(b) by the County Council over some or all of the Districts.

These functions are, first, the functions specified in paragraph 119 above as being exercisable alternatively by Rural District Councils or by County Councils; and secondly, in addition, the following functions :

Promotion and assistance of co-operative societies for provision of small holdings or allotments.\*

Provision of public libraries.†

Establishment and maintenance of aerodromes.‡

Appointment of gas examiners.§

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\*\* Public Health Act, 1875, section 171.

†† Public Health Act, 1875, section 167.

‡‡ Town Police Clauses Act, 1889, section 6.

§§ Tramways Act, 1870, sections 3 and 4, and Schedule A, Part I.

||| Tramways Act, 1870, section 48.

¶¶ Public Health Act, 1875, section 172.

\*\*\* Health Resorts and Watering Places Act, 1921, sections 1 and 3.

††† Public Health Act, 1875, sections 161-2.

‡‡‡ General Pier and Harbour Act, 1861, Amendment Act, 1862, section 3 and Schedule (B), Part I.

\* Small Holdings and Allotments Act, 1908, section 49 (County Councils); Land Settlement (Facilities) Act, 1919, section 25 and Second Schedule (Urban District Councils).

† Public Libraries Act, 1892, sections 2 and 27 (Urban District Councils); Public Libraries Act, 1919 sections 1 and 2 (County Councils). If the Public Libraries Acts have been adopted by the County Council for any part of their area which includes the Urban District, and the Urban District Council had not previously adopted the Acts, their power of adopting them has ceased: Public Libraries Act, 1919, section 1 (2).

‡ Air Navigation Act, 1920, section 8.

§ Gas Regulation Act, 1920, sections 4 (3) and 18. An Urban District Council who are undertakers cannot exercise this function. The consent of the Urban District Council is required to its exercise by the County Council.

**Permissive Functions with respect to which (1) Urban District Councils have Jurisdiction in their respective Areas, and (2) the County Council have Jurisdiction throughout the Administrative County.**

140. Further, there are certain functions which may be exercised concurrently both

(a) by Urban District Councils within the areas of their respective Districts; and

(b) by the County Council throughout the Administrative County.

These functions are, first, the function of prevention of pollution of rivers specified in paragraph 120 above as being exercisable concurrently by Rural District Councils and by County Councils; and secondly, in addition, the following function :

Promotion of, and opposition to, Bills in Parliament.\*\*

\*\* Local Government Act, 1888, section 15 (County Councils, opposition to Bills); County Councils (Bills in Parliament) Act, 1903 (County Councils, promotion of Bills); Borough Funds Acts, 1872 and 1903 (Town and Urban District Councils).

**Functions of Councils of Urban Districts having Populations of Certain Sizes.**

141. The existing law further requires or empowers the Councils of Urban Districts having populations of a certain size at various dates to exercise the following functions :

**A.—IF THE POPULATION IS 10,000**

OR OVER :

*Obligatory Functions :*

Establishment of Allotments Committee.\*

*Permissive Functions :*

Regulation of advertisements.‡

Taking over by agreement powers of the Board of Customs and Excise as to entertainments and entertainments duty.

*Population reckoned according to*

Published returns of the last Census for the time being.†

The last Census for the time being.§

Date not specified.||

\* Unless exempted by the Minister of Agriculture and Fisheries after consultation with the Minister of Health : Allotments Act, 1922, sections 13 and 14.

‡ Advertisements Regulation Act, 1907, sections 2 and 7 (4) ; Ancient Monuments Consolidation and Amendment Act, 1913, section 19.

† Allotments Act, 1922, sections 14 and 22 (2).

§ Advertisements Regulation Act, 1907, section 7 (4).

|| Finance (New Duties) Act, 1916, section 2 (4).

B.—IF THE POPULATION IS OVER  
20,000 :

<i>Obligatory Functions:</i>	<i>Population reckoned according to</i>
Preparation of a town planning scheme.	Census of 1921.†††
Provision for elementary education, including medical inspection and treatment and care of defective and epileptic children (unless the Council have relinquished their powers to the County Council).*	Census of 1901.***
<i>Permissive Functions:</i>	
Further provision for elementary education, including	Census of 1901 ***
Provision of meals;†	
Cleansing of verminous children;‡	
Social and physical training;§	
Prosecutions for cruelty to children;	
Making byelaws regulating the employment of children and street trading by children and young persons;¶	
Granting licences for children to take part in entertainments.**	
Provision of industrial schools.††	Census of 1901.‡‡

C.—IF THE POPULATION IS 20,000  
OR OVER :

<i>Obligatory Functions:</i>	
Administration of the Shops Acts as to conditions of employment of shop assistants and weekly half-holiday.	Published returns of the last Census for the time being.§§
Appointment of Local Pension Committee.	Last published Census for the time being.
* Education Act, 1921, sections 3, 5, 80 and 55.	††† Town Planning Act, 1925, section 3 (1).
† Education Act, 1921, sections 82 and 84.	*** Education Act, 1921, section 3.
‡ Ibid., section 87.	†† Children Act, 1908, section 74 (7).
§ Ibid., section 86.	§§ Shops Act, 1912, section 13 (2).
Ibid., section 89.	Old Age Pensions Act, 1908, section 8.
¶ Ibid., sections 90 and 91.	
** Ibid., section 101.	
†† Children Act, 1908, section 74	

<i>Permissive Functions :</i>	<i>Population reckoned according to</i>
Administration of the Shops Acts as to evening closing.	Published returns of the last Census for the time being.¶¶
D.—IF THE POPULATION IS 50,000 OR OVER :	
<i>Obligatory Functions :</i>	
Appointment of Distress Committee.	The last Census for the time being.*
<i>Permissive Functions :</i>	
Provision of financial assistance to a Joint Electricity Authority whose district includes the whole or part of the Urban District.†	Published returns of the last Census for the time being.‡

† But if the Council are authorized undertakers within the district of any Joint Electricity Authority, or receive or intend to receive a supply from the Joint Electricity Authority, they may provide financial assistance irrespective of the population of their District.

¶¶ Shops Act, 1912, section 13 (2).  
\* Unemployed Workmen Act, 1905, section 2.  
‡ Electricity (Supply) Act, 1922, section 5 (1).

### Functions for which Authority may be Acquired by Urban District Councils.

142. Lastly, any Urban District Council may acquire functions, in addition to those already specified, in the following manner :

- (a) By adopting all or any of the Parts of the Public Health Acts Amendment Act, 1890 ;§
- (b) By adopting the Private Street Works Act, 1892 ;||
- (c) By applying for, and obtaining, an Order of the Minister of Health which declares any Part or section of the Public Health Acts Amendment Act, 1907, to be in force in the District.¶¶

The nature of the functions which a Council may acquire authority to exercise under these Acts has been sufficiently exemplified in the passages of this Chapter which deal with them in relation to Rural District Councils (*see* paragraphs 128 to 134 above).

§ Public Health Acts Amendment Act, 1890, section 3.  
|| Private Street Works Act, 1892, section 2.  
¶¶ Public Health Acts Amendment Act, 1907, section 3.

## SECTION 5.—FUNCTIONS OF TOWN COUNCILS IN BOROUGHs OTHER THAN COUNTY BOROUGHs.

### Functions of all Town Councils.

#### OBLIGATORY FUNCTIONS.

143. The Council of a Borough which is not a County Borough must, first, exercise the functions which are obligatory upon the Council of an Urban District irrespective of the size of the population of the District. That is to say, every such duty of an Urban District Council is also a duty of a Town Council.

144. A Town Council must, secondly, exercise the following functions which are not duties of the Council of an Urban District irrespective of the size of the population of the District :

Administration of the Shops Acts as to conditions of employment of shop assistants and weekly half-holiday.\*\*

Licensing of inebriate retreats (for voluntary cases).††

#### PERMISSIVE FUNCTIONS.

145. A Town Council may, first, exercise the functions which the Council of an Urban District are empowered to exercise irrespective of the size of the population of the District. That is to say, every such power of an Urban District Council is also a power of a Town Council.

146. A Town Council may, secondly, exercise the following functions which the Council of an Urban District either are not empowered to exercise at all or are only empowered to exercise in Districts having populations of certain sizes :

Making byelaws for good rule and government.\*

Administration of the Shops Acts as to evening closing.†

Regulation of advertisements.‡

Exemption of certain vehicles from carrying lights at night.§

Taking over by agreement powers of the Board of Customs and Excise as to entertainments and entertainments duty.||

147. Thirdly, it follows from the status of a Borough that a Town Council have, as an Urban District Council have not, power to vote a salary to the member of the Authority elected to preside over their deliberations, viz., the Mayor.¶

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\*\* Shops Act, 1912, section 13 (2).

†† Inebriates Act, 1898, section 13.

\* Municipal Corporations Act, 1882, section 23.

† Shops Act, 1912, section 13 (2).

‡ Advertisements Regulation Act, 1907, section 7 (2) ; Ancient Monuments Consolidation and Amendment Act, 1913, section 19.

§ Lights on Vehicles Act, 1907, section 3.

|| Finance (New Duties) Act, 1916, section 2 (4).

¶ Municipal Corporations Act, 1882, section 15 (4).

**Permissive Functions which may be Exercised in Boroughs either (1) by the Town Council or (2) by the County Council.**

148. Further, there are certain functions which in Boroughs may be exercised alternatively

- (a) by the Town Councils of some or all of the Boroughs;
- or
- (b) by the County Council in some or all of the Boroughs.

These functions are, first, the functions specified in paragraph 139 above as being exercisable alternatively by Urban District Councils or by County Councils; and secondly, in addition, the following functions :

Establishment and maintenance of inebriate reformatories (for committed cases)\*, and contributing sums towards the establishment and maintenance of such reformatories or of inebriate retreats (for voluntary cases).†

Care of ancient monuments.‡

Acquisition of land for military purposes.§

**Permissive Functions with respect to which (1) Town Councils have Jurisdiction in their respective Areas, and (2) the County Council have Jurisdiction throughout the Administrative County.**

149. Further, there are certain functions which may be exercised concurrently both

- (a) by Town Councils within the areas of their respective Boroughs; and
- (b) by the County Council throughout the Administrative County.

These functions are the functions in regard to the prevention of pollution of rivers, and promoting or opposing Bills in Parliament, specified in paragraph 140 above as being exercisable concurrently by Urban District Councils and by County Councils.

**Functions of Councils of Boroughs having Populations of Certain Sizes.**

150. The existing law further requires or empowers the Councils of Boroughs having populations of certain sizes at various dates to exercise the following functions in addition to those already enumerated as being among the duties or powers of all Town Councils :

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\* Inebriates Act, 1898, section 9.

† Inebriates Act, 1898, sections 9 and 14.

‡ Ancient Monuments Consolidation and Amendment Act, 1913, section 21.  
A Town Council may also (under section 11) undertake the care of ancient monuments in the vicinity of, though not in, their area.

§ Military Lands Act, 1892, section 1 (3).

A.—IF THE POPULATION IS OVER  
10,000 :

*Obligatory Functions :*

Dealing with applications for licences for the sale of poisons for agricultural and horticultural purposes.

Provision for elementary education (unless the Council have relinquished their powers to the County Council).

*Population reckoned  
according to*

Last published Census for the time being.\*

Census of 1901.†

*Permissive Functions :*

Further provision for elementary education (as in Urban Districts the population of which was over 20,000 in 1901).

Census of 1901.†

Provision of industrial schools.  
Making application for regulations limiting the speed of motor cars.

Census of 1901.‡

Census of 1901.§

B.—IF THE POPULATION IS 10,000  
OR OVER :

*Obligatory Functions :*

Maintenance of police force.††  
Administration of the Diseases of Animals Acts.

Census of 1881.‖

Census of 1881.‖

Administration of the Destructive Insects and Pests Acts.

Census of 1881.‖

Establishment of Allotments Committee.‡‡

Published returns of the last Census for the time being.¶¶

*Permissive Functions :*

Making byelaws as to use of locomotives on particular highways and bridges.

Census of 1881.\*\*

†† Municipal Corporations Act, 1882, sections 190 and 191 ; Local Government Act, 1888, section 39 (1) : but a Borough police force may be consolidated with a County force by agreement or on the representation of the Town Council : County Police Act, 1840, section 14 ; County and Borough Police Act, 1856, section 5.

‡‡ Unless exempted by the Minister of Agriculture and Fisheries after consultation with the Minister of Health : Allotments Act, 1922, sections 13 and 14.

\* Poisons and Pharmacy Act, 1908, section 2.

† Education Act, 1921, section 3.

‡ Children Act, 1908, section 74

(7) § Motor Car Act, 1903, section 9.  
‖ Local Government Act, 1888, section 39.

¶¶ Allotments Act, 1922, sections 14 and 22 (2).

\*\* Locomotives Act, 1898, section 6.



C.—IF THE POPULATION IS OVER  
20,000 :

*Obligatory Functions:*

Preparation of town planning  
scheme.

*Population reckoned  
according to  
Census of 1921.¶*

D.—IF THE POPULATION IS 20,000  
OR OVER :

*Obligatory Functions:*

Appointment of Local Pension  
Committee.

Last published Census for  
the time being.\*\*

*Permissive Functions:*

Making application for estab-  
lishment of Sea Fisheries  
District.

Census of 1881.††

Establishment of police force in  
Districts incorporated after  
the 31st December, 1882.‡‡

The Census taken next  
before the date of the in-  
corporation.§§

E.—IF THE POPULATION IS 50,000  
OR OVER :

*Obligatory Functions:*

Appointment of Distress Com-  
mittee.

The last Census for the time  
being.\*

*Permissive Functions:*

Making application for the  
Borough to be constituted a  
County Borough.

Number at the date of the  
application.†

Provision of financial assistance  
to a Joint Electricity Autho-  
rity whose district includes  
the whole or part of the  
Borough.‡

Published returns of the last  
Census for the time  
being.§

¶¶ But see, as to the practice, Privy Council Office (FitzRoy), Q. 3403-4 (II, 220); Home Office (Dixon), Q. 3757-9 (II, 244).

‡ But if the Council are authorized undertakers within the district of any Joint Electricity Authority, or receive or intend to receive a supply from the Joint Electricity Authority, they may provide financial assistance irrespective of the population of the Borough.

¶ Town Planning Act, 1925, section 3 (1).

\*\* Old Age Pensions Act, 1908, section 8.

†† Sea Fisheries Regulation Act, 1888, section 14.

§§ Municipal Corporations Act, 1882, section 215.

\* Unemployed Workmen Act, 1905, section 2.

† Local Government Act, 1888, section 54.

§ Electricity (Supply) Act, 1922, section 5 (1).

**Functions of Councils of Boroughs having (a) Populations of Certain Sizes, and (b) a Separate Court of Quarter Sessions.**

151. In Boroughs which not only have populations of certain sizes, but also have a separate Court of Quarter Sessions, the Town Councils are further required or empowered to exercise the following function :

IF (a) THE POPULATION IS 10,000

OR OVER, AND

(b) THE BOROUGH HAS A SEPARATE COURT OF QUARTER SESSIONS :

*Obligatory Functions :*

Appointment of Coroner.\*

*Population reckoned according to*

Census of 1881.†

**Functions of Councils of Boroughs (a) having Populations of Certain Sizes, and (b) complying with other Special Conditions.**

152. There is a further category of functions which the Councils of Boroughs are required or empowered to exercise in virtue of the facts that (a) the populations of their areas are of certain sizes, and (b) various other special conditions are complied with.

IF (a) THE POPULATION IS 10,000

OR OVER, AND

(b) THE BOROUGH IS A COUNTY OF A CITY OR A COUNTY OF A TOWN :

*Permissive Functions :*

Making application for constitution of Fishery Boards and definition of Fishery Districts.

*Population reckoned according to*

Census of 1881.‡

IF (a) THE POPULATION IS 10,000

OR OVER, AND

(b) THE BOROUGH HAS A SEPARATE COURT OF QUARTER SESSIONS ; or

(b) THE COUNCIL PROVIDED LEGAL LOCAL STANDARDS AND APPOINTED INSPECTORS BEFORE THE 1ST JANUARY, 1879 ; or

\* Municipal Corporations Act, 1882, section 171 ; Local Government Act, 1888, section 38 (2) (a).

† Local Government Act, 1888, section 38 (2) (a).

‡ Salmon and Freshwater Fisheries Act, 1923, section 88.

- (b) THE COUNCIL RESOLVE THAT  
THEY SHOULD BE THE  
LOCAL AUTHORITY, AND  
PROVIDE SUCH STANDARDS AND APPOINT INSPECTORS AFTER THE 1ST JANUARY, 1879 :

*Obligatory Functions :*

Administration of the Weights and Measures Acts.||

*Population reckoned according to*  
Census of 1881.\*

*Permissive Functions :*

Administration of the Cran Measures Act, 1908.†

Census of 1881.\*

Administration of the Sale of Tea Act.‡

Census of 1881.\*

IF (a) THE POPULATION IS 10,000 OR OVER, AND

(b) THE BOROUGH HAS A SEPARATE COURT OF QUARTER SESSIONS ; or

(b) THE COUNCIL HAVE BEEN DECLARED TO BE THE LOCAL AUTHORITY :

*Obligatory Functions :*

Administration of the Explosives Act.§

Census of 1881.\*

IF (a) THE POPULATION IS 10,000 OR OVER, AND

(b) THE BOROUGH HAS A SEPARATE COURT OF QUARTER SESSIONS ; or

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|| Weights and Measures Act, 1878, section 50.

† If, on the application of a Council who are a Local Authority for the purposes of the Weights and Measures Acts, the Minister of Agriculture and Fisheries makes an Order declaring the Act in force.

‡ If the Council are the Local Authority for the purposes of the Weights and Measures Acts:

§ Outside any harbour, in which the Harbour Authority are the Local Authority: Explosives Act, 1875, sections 67 and 68; Local Government Act, 1888, sections 38 (2) (c) and 39 (3).

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\* Local Government Act, 1888, section 39 (1) (e).

- (b) THE BOROUGH HAS A SEPARATE POLICE FORCE :

*Obligatory Functions.*

*Population reckoned according to*

Appointment of analysts and administration of the Sale of Food and Drugs Acts.\*

Census of 1881.†

Enforcement of the provisions of the Milk and Dairies (Amendment) Act, 1922, as to licences to sell milk under special designations, and prohibition of addition of colouring matter, etc., to milk.‡

Census of 1881.†

IF (a) THE POPULATION IS 10,000 OR OVER, AND

- (b) THE COUNCIL DO NOT MANUFACTURE OR SELL GAS, AND ADOPTED THE SALE OF GAS ACT, 1859, BEFORE THE 13TH APRIL, 1861 :

*Permissive Functions :*

Testing of gas meters.§

Census of 1881.||

**Functions of Councils of Boroughs Complying with Special Conditions irrespective of the Sizes of their Populations.**

153. There is a further function which Town Councils of some Boroughs are required to exercise because the Boroughs comply with certain special conditions irrespective of the sizes of their populations.

This function is as follows :

*Obligatory Function :*

Provision and maintenance of lunatic asylums.

*Special Conditions :*

The Borough was named in the Fourth Schedule to the Lunacy Act, 1890, and the Town Council have not ceased to be the Local Authority by the determination of a contract to send patients to the County Asylum.¶

\* Sale of Food and Drugs Act, 1875, section 10.

† Milk and Dairies (Amendment) Act, 1922, section 10.

§ Board of Trade (Sears) M. 17, 23 ; Q. 4398-423 (II, 297-8).

† Local Government Act, 1888, sections 38 (2) (b), 39 (1) (b).

|| Local Government Act, 1888, section 39 (1) (d).

¶ Lunacy Act, 1890, sections 238, 240 and 246 ; Lunacy Act, 1891, section 13.

## SECTION 6.—FUNCTIONS OF COUNTY COUNCILS.

### Functions with respect to which the County Council have Jurisdiction throughout the Administrative County.

154. County Councils are required or empowered, first, to exercise certain functions throughout the area of the Administrative County, that is, the geographical County less the areas of any County Boroughs within it.

#### OBLIGATORY FUNCTIONS.

155. The functions which the County Council are required to exercise throughout the area of the Administrative County are as follows :

##### *As to Education :*

##### *Higher Education :*

Consideration of the educational needs of the area and taking steps to supply or aid the supply of higher education and to promote the general co-ordination of all forms of higher education.\*

##### *As to Roads and Bridges :*

Maintenance and repair of main roads.†

Maintenance and repair of County bridges.‡

##### *As to Public Health :*

Supervision of midwives.§

Provision for the accommodation, care, and maintenance of mental defectives.||

\* Education Act, 1921, section 3 (2). The Council of any Urban District or Borough may also spend an amount not exceeding in any year the amount of the produce of a penny rate on this service. As to the practice, *see* Board of Education (Selby-Bigge and Barker), M. 15 (II, 404).

† But main roads are not necessarily maintained and repaired directly by the County Council ; for (1) the Council of any Borough or Urban District may have claimed to retain the function of maintaining and repairing any main road in their area either (a) within twelve months after the 1st April, 1889, or (b) within twelve months after the date on which any road in their area became a main road ; and (2) the Council of any Borough, Urban District or Rural District may contract with the County Council for undertaking, and if required by the County Council must undertake, the maintenance and repair of any main road in their area. The County Council must make an annual payment towards the costs of the maintenance and repair of any main road by a Local Authority under either of the foregoing provisions. Before making any such payment the County Council must be satisfied by the report of their Surveyor or other officer that the work has been properly executed by the Local Authority (Local Government Act, 1888, section 11).

‡ Local Government Act, 1888, sections 3 (viii) and 11 (1).

§ Unless the County Council had delegated their functions to the Council of any County District before the 1st January, 1919, and the delegation has not been revoked by the Minister of Health on the representation of the County Council : Midwives Act, 1918, sections 12 and 16 (2).

|| Mental Deficiency Act, 1913, sections 27 to 30.

*As to Public Health (contd.) :*

Destruction of rats and mice.‡‡

Provision for the welfare of the blind.§§

Registration of charities for the blind.‖‖‖

Provision of institutions for the treatment of tuberculosis.¶¶

Provision of treatment for venereal diseases.\*\*\*

Enforcement of epidemic disease regulations.†††

*As to Agriculture :*

Provision of small holdings.\*

Provision for analysis of fertilisers and feeding stuffs.†

*As to Registration and Licences :*

Registration of, and issue of licences for, motor-cars and locomotives; issue of licences to drive motor-cars.‡

Collection of licence duties in respect of armorial bearings, carriages, dogs, game, guns, and male servants.§

Licensing of cinematograph premises.‖

Licensing of theatres.¶

Licensing places for music or dancing.\*\*

Licensing racecourses.††

‡‡ Outside any Port Sanitary District, in which the Port Sanitary Authority are the Local Authority; and outside any County District to the Council of which the County Council have, by consent, delegated their functions: Rats and Mice (Destruction) Act, 1919, section (2).

§§ Blind Persons Act, 1920, section 2 (1).

¶¶ Blind Persons Act, 1920, section 3 (1) (a).

¶¶ National Insurance Act, 1911, section 64 (1) and (2); Public Health (Tuberculosis) Act, 1921, section 1.

\*\*\* Public Health (Venereal Diseases) Regulations, 1916, article II.

††† If the County Council are declared to be an Authority for this purpose by the Minister of Health: Public Health (Prevention and Treatment of Disease) Act, 1913, section 2.

\* If required by a scheme confirmed by the Minister of Agriculture and Fisheries: Small Holdings and Allotments Act, 1908, sections 1, 5 and 6; and outside any Borough or Urban District with the Council of which the County Council have arranged for that Council to exercise functions under the Act as agents for the County Council; *ibid.*, section 18.

† Fertilisers and Feeding Stuffs Act, 1906.

‡ Roads Act, 1920, section 1 (motor cars and locomotives); Motor Car Act, 1903, section 3 (2) (drivers).

§ Finance Act, 1908, section 6.

‖ Without prejudice to any powers of delegation to District Councils, a County Council may delegate this function to Justices: Cinematograph Act, 1909, section 5.

¶ Except in places within the jurisdiction of the Lord Chamberlain as licensing authority. A Council may delegate this function to the Council of any County District, or to Justices: Local Government Act, 1888, sections 7 and 28 (2).

\*\* This function can be exercised only in or within 20 miles of the Cities of London and Westminster: Disorderly Houses Act, 1751, section 2; Local Government Act, 1888, section 3 (v). Middlesex County Council have special powers: Music and Dancing Licences (Middlesex) Act, 1894, section 2 (12).

†† This function can be exercised only in application to places within a radius of 10 miles from Charing Cross: Racecourses Licensing Act, 1879; Local Government Act, 1888, section 3 (v).

*As to Appointments:*

Appointment of one-fifth of the members of the Insurance Committee. |||

*As to Other Services:*

Institution of proceedings for contravention of provisions for safety of children at entertainments. ¶¶

## PERMISSIVE FUNCTIONS.

156. The functions which the County Council are empowered to exercise throughout the area of the Administrative County are as follows:

*As to Education:*

Provision of reformatory schools.\*

Promotion of social and physical training among children (other than those attending public elementary schools), young persons, and persons over the age of 18 attending higher educational institutions.†

*As to Roads and Bridges:*

Declaring roads to be main roads.‡

Making application for dismaining of main roads.§

Improvement, etc., of main roads.||

Construction of new roads if assisted by grant made by the Minister of Transport, or if an agreement has been made with other Local Authorities.¶

Erection of new bridges.\*\*

Contributing towards cost of maintenance and improvement, etc., of highways which are not main roads.††

Making byelaws as to the use of carts, etc., on highways, the erection of gates opening on highways‡‡, and the use of light locomotives on any specified bridge.§§

||| National Health Insurance Act, 1924, section 48 (3).

¶¶ Children Act, 1908, section 121.

\* Children Act, 1908, section 74.

† Education Act, 1921, section 86.

‡ Highways and Locomotives (Amendment) Act, 1878, section 15.

§ Highways and Locomotives (Amendment) Act, 1878, section 16. But the dismaining of any main road in a Borough is subject to the assent of the Town Council: Highways and Bridges Act, 1891, section 4.

|| Local Government Act, 1888, section 11 (1).

¶ Roads Act, 1920, section 4; Highways and Bridges Act, 1891, section 3.

\*\* Local Government Act, 1888, section 6.

†† Local Government Act, 1888, section 11 (10).

‡‡ Highways and Locomotives (Amendment) Act, 1878, section 26; Local Government Act, 1888, section 3 (viii).

§§ Locomotives on Highways Act, 1896, section 1 (1), proviso (a).

*As to Public Health :*

Notification of births.††

Constitution of Hospital Districts and directing the establishment of isolation hospitals for such Districts.§§

Aiding the training of midwives.||||

Contributing towards expenses of hospitals for infectious diseases provided by Local Authorities.¶¶

*As to Housing :*

Provision of houses for employees.\*

Promoting and assisting public utility societies.†

*As to Agriculture :*

Advancing money to tenants of small holdings.‡

Acquiring land for letting to Parish Councils for allotments.§

*As to Other Services :*

Protection of wild birds.||

Aiding emigration by advances of money.¶

Exemption of vehicles engaged in harvesting from carrying lights at night.\*\*

Establishment of superannuation fund for officers or servants.††

†† If the County Council had adopted the Notification of Births Act, 1907, before the 1st September, 1915, either for the whole Administrative County or any County District, and the Minister of Health has not subsequently made an Order on the application of the Council of the District declaring that Council to be the Local Authority : Notification of Births Act, 1907, section 2 (4) ; Notification of Births (Extension) Act, 1915, section 1 (1).

§§ But (1) this power does not extend to (a) any Borough having a population of 10,000 or upwards according to the Census for the time being in force, without the consent of the Town Council, or (b) to any other Borough without the like consent, unless the Minister of Health so orders ; (2) a Hospital District may not be constituted for parts of a Rural District, or for one County District, unless the Sanitary Authority either (a) assent or (b) are proved to the satisfaction of the County Council to be unable or unwilling to make suitable provision ; and (3) any Local Authority (including a Parish Council) having jurisdiction in any part of a proposed Hospital District may appeal to the Minister of Health against the formation of the District : Isolation Hospitals Act, 1893, section 2, 8 (3), and 9.

|||| Midwives Act, 1918, section 11.

¶¶ Isolation Hospitals Act, 1893, section 21 ; Isolation Hospitals Act, 1901 section 2.

\* Housing Act, 1925, section 72.

† Housing Act, 1925, section 70.

‡ Small Holdings and Allotments Act, 1908, section 19.

§ Land Settlement (Facilities) Act, 1919, section 17.

¶ Local Government Act, 1888, section 3 (xiii).

¶¶ Local Government Act, 1888, section 69 (1).

\*\* Lights on Vehicles Act, 1907, section 4.

†† If the County Council, either alone or with any other Local Authorities in the County with whom they combine, employ not less than 50 officers or servants in established posts : Local Government and other Officers' Superannuation Act, 1922, sections 3 and 5.



**Functions which may be Exercised either (1) over the Whole or Part of the Administrative County by the County Council, or (2) in some or all Areas within the Administrative County by other Local Authorities irrespective of the Sizes of the Populations of the Areas or of other Conditions.**

157. Secondly, there are certain functions which may be exercised alternatively

(a) by the County Council over the whole or part of the Administrative County; or

(b) by some or all of the Local Authorities of areas within the Administrative County (*i.e.*, Town Councils, Councils of Urban Districts, Rural Districts or Parishes), irrespective of the sizes of the populations of the areas or of other conditions, so far as their jurisdiction extends.

These functions are as follows :

#### PERMISSIVE FUNCTIONS.

<i>As to Public Health:</i>	<i>Local Authorities other than County Councils empowered to exercise the functions:</i>
Provision for maternity and child welfare.	Town Councils. Urban District Councils. Rural District Councils.
Establishment and maintenance of inebriate reformatories (for committed cases), and contributing sums towards the establishment of such reformatories and of inebriate retreats (for voluntary cases).	Town Councils.
<i>As to Housing:</i>	
Undertaking to administer the Small Dwellings Acquisition Acts.	Town Councils. Urban District Councils. Rural District Councils.*

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\* The exercise of this function is subject to the consent of the County Council if the population of the County District was less than 10,000 according to the last Census for the time being: Small Dwellings Acquisition Act, 1899, section 9 (1).

<i>As to Education :</i>	<i>Local Authorities other than County Councils empowered to exercise the functions :</i>
Provision of public libraries.	Town Councils. Urban District Councils. Parish Councils.†
<i>As to Agriculture :</i>	
Promotion and assistance of co-operative societies for small holdings or allotments.	Town Councils. Urban District Councils.
<i>As to Parks and Open Spaces :</i>	
Provision or aiding provision of open spaces, public walks, and pleasure grounds.	Town Councils. Urban District Councils. Rural District Councils. Parish Councils.‡
<i>As to Other Services :</i>	
Care of ancient monuments.§	Town Councils.
Acquisition of land for military purposes.	Town Councils.
Establishment of aerodromes.	Town Councils. Urban District Councils.
Acquisition of ferries.	Town Councils. Urban District Councils. Rural District Councils.
Making application for an Order authorizing a light railway.	Town Councils. Urban District Councils. Rural District Councils.
Making or opposing applications to Railway and Canal Commission and Railway Rates Tribunal as to railway services, etc..	Town Councils. Urban District Councils. Rural District Councils.
Making application for an Order investing a Rural District Council with urban powers under section 276 of the Public Health Act, 1875.	Rural District Councils. Parish Councils.

§ The County Council may also undertake the care of ancient monuments in the vicinity of, though not in, their area : Ancient Monuments Consolidation and Amendment Act, 1913, section 11.

† If the Public Libraries Acts have been adopted by the County Council for any part of their area which includes a Borough, Urban District, or Parish, and the Council of that place had not previously adopted the Acts, their power of adopting them has ceased : Public Libraries Act, 1919, section 1 (2).

‡ If the Parish Council are invested with powers by an Order of the County Council : Open Spaces Act, 1906, section 1.

*As to Other Services (contd.):*      *Local Authorities other than County Councils empowered to exercise the functions:*

Contributing to the expenses of the Harbour Authority of a small harbour.	Town Councils. Urban District Councils. Rural District Councils. Parish Councils.
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**Functions with respect to which (1) the County Council have Jurisdiction throughout the Administrative County, and (2) other Local Authorities have Jurisdiction in their respective Areas.**

158. Thirdly, there are certain functions which may be exercised concurrently both

(a) by the County Council throughout the Administrative County; and

(b) by the Local Authorities of County Districts within the areas of such Districts.

These function are as follows :

#### PERMISSIVE FUNCTIONS.

*As to Public Health:*      *Local Authorities in addition to County Councils empowered to exercise the functions:*

Prevention of pollution of rivers.	Town Councils. Urban District Councils. Rural District Councils.
Making applications under the Water Undertakings (Modification of Charges) Act, 1921.	Town Councils. Urban District Councils. Rural District Councils.

*As to Other Services :*

Promotion of, and opposition to, Bills in Parliament.	Town Councils. Urban District Councils.
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**Functions with respect to which the County Council have Jurisdiction in Part of the Administrative County and other Local Authorities in the Remainder.**

159 Fourthly, there is a number of functions with respect to which (a) the County Council have jurisdiction in part of the Administrative County, that part being defined by the exclusion from it of the areas of jurisdiction of Local Authorities of other types either

(i) as such ; or

(ii) by reference to the size of the populations of the areas either at fixed dates or at different dates ; or

- (iii) in virtue of the existence in a Borough of a separate Court of Quarter Sessions; or
  - (iv) in virtue of the existence in a Borough of a separate police force; or
  - (v) by reference to the size of the population of a Borough combined with one or other of the foregoing conditions (iii) and (iv); or
  - (vi) by reference to other special conditions; and
- (b) Local Authorities of other types have jurisdiction, so far as the conditions above enumerated are satisfied in their areas, in respect of the functions to which they apply.

160. These functions are as follows :

OBLIGATORY FUNCTIONS :

*As to Education :*

Provision for elementary education, including medical inspection and treatment and care of defective and epileptic children.

*Areas within the Administrative County excluded from the jurisdiction of the County Council :*

Boroughs with population of over 10,000 and Urban Districts with population of over 20,000 according to Census of 1901.\*

*As to Public Health :*

Provision and maintenance of lunatic asylums.

Boroughs named in the Fourth Schedule to the Lunacy Act, 1890, unless the Council cease to be the Local Authority by the determination of a contract to send patients to the County Asylum.

Appointment of analysts and administration of the Sale of Food and Drugs Act.

Boroughs with (a) population of 10,000 or over according to Census of 1881, and (b) either a separate Court of Quarter Sessions or a separate police force.

Enforcement of the provisions of the Milk and Dairies (Amendment) Act, 1922, as to licences to sell milk under special designations, and prohibition of addition of colouring matter, etc., to milk.

Ditto.

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\* Unless the Council, with the approval of the Board of Education, have relinquished their powers, wholly or in part, in favour of the County Council : Education Act, 1921, section 5.

<i>As to Agriculture:</i>	<i>Areas within the Administrative County excluded from the jurisdiction of the County Council:</i>
Administration of the Diseases of Animals Acts.	Boroughs with population of 10,000 or over according to Census of 1881.
Administration of the Destructive Insects and Pests Acts.	Boroughs with population of 10,000 or over according to Census of 1881.
Dealing with applications for licences for the sale of poisons for agricultural and horticultural purposes.	Boroughs with population of over 10,000 according to last published Census for the time being.
<i>As to Appointments:</i>	
Appointment of Coroner.	Boroughs with population of 10,000 or over according to Census of 1881, and a separate Court of Quarter Sessions; and franchise areas.
Appointment of Local Pension Committee.	Boroughs and Urban Districts with population of 20,000 or over according to last published Census for the time being.
<i>As to Other Services:</i>	
Administration of the Shops Acts as to conditions of employment of shop assistants and weekly half-holiday.	All Boroughs; Urban Districts with population of 20,000 or over according to last published Census for the time being.*
Payment of compensation for damage by riot.	Boroughs with separate police forces.
Administration of the Explosive Acts.	Harbours; Boroughs with (a) population of over 10,000 according to Census of 1881, and (b) either a separate Court of Quarter Sessions or in which the Council have been declared to be the Local Authority under section 68 of the Explosives Act, 1875.†

\* The County Council may, further, make arrangements, with the approval of the Home Secretary, for Councils of Urban Districts with population of under 20,000, or of Rural Districts, to act as their agents: Shops Act, 1912, section 13 (2).

† The County Council may, further, delegate this function to the Council of any County District or to Justices.

<i>As to Other Services (contd.) :</i>	<i>Area within the Administrative County excluded from the jurisdiction of the County Council :</i>
Licensing of inebriate retreats (for voluntary cases).	All Boroughs.
Administration of the Weights and Measures Acts.	Boroughs with (a) population of 10,000 or over according to Census of 1881, and (b) either a separate Court of Quarter Sessions or in which the Council provided legal local standards and appointed Inspectors before the 1st January, 1879, or in which the Council resolve that they should be the Local Authority and provide such standards and appoint Inspectors after the 1st January, 1879.
Registration of war charities.	All Boroughs and Urban Districts.
Administration of the Fabrics (Misdescription) Act.	All Boroughs and Urban Districts.
PERMISSIVE FUNCTIONS :	
<i>As to Education :</i>	
Further provision for elementary education (as in Urban Districts the population of which was over 20,000 in 1901).	Boroughs with population of over 10,000 and Urban Districts with population of over 20,000 according to Census of 1901, unless the Council have relinquished their powers to the County Council.
Provision of industrial schools.	Ditto.
<i>As to Roads :</i>	
Making byelaws as to use of locomotives on particular highways or bridges.	Boroughs with population of 10,000 or over according to Census of 1881.
<i>As to Other Services :</i>	
Regulation of advertisements.	All Boroughs; Urban Districts with population of 10,000 or over according to last Census for the time being.

<i>As to Other Services (contd.):</i>	<i>Areas within the Administrative County excluded from the jurisdiction of the County Council:</i>
Making byelaws for good rule and government.	All Boroughs.
Administration of the Shops Acts as to evening closing.	All Boroughs; Urban Districts with population of 20,000 or over according to last published Census for the time being.
Making application for establishment of Sea Fisheries Districts.	Boroughs with population of 20,000 or over in 1881.
Making application for constitution of Fishery Boards and definition of Fishery Districts.	Boroughs with population of 10,000 or over in 1881 which are Counties of Cities or Towns.
Taking over by agreement powers of the Board of Customs and Excise as to entertainments and entertainment duty.	All Boroughs; Urban Districts with population of 10,000 or over (at what date not specified).
Administration of the Cran Measures Act, 1908.	Boroughs the Council of which are the Local Authority under the Weights and Measures Acts and on whose application the Minister of Agriculture and Fisheries makes an Order declaring the Act in force.
Administration of the Sale of Tea Act.	Boroughs the Council of which are the Local Authority under the Weights and Measures Acts.
Gas meter testing.	Boroughs with population of 10,000 or over according to Census of 1881 the Council of which are not manufacturers or sellers of gas, and adopted the Sale of Gas Act, 1859, before the 13th April, 1861.

### Functions of Councils of Counties having Populations of Certain Sizes.

161. Fifthly, the following function may be exercised by the Councils of Counties having populations of a certain size :

#### PERMISSIVE FUNCTION :

##### *As to Electricity Supply :*

Provision of financial assistance to a Joint Electricity Authority whose district includes the whole or part of the County.	Councils of Counties with population of 50,000 or over according to published returns of the last Census for the time being.
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### Functions with respect to which the County Council have Jurisdiction on Default of other Local Authorities.

162. Sixthly, there are certain functions with respect to which the County Council have jurisdiction on default of the Local Authority primarily responsible.

These functions are as follows :

##### *As to Agriculture :*

Provision of allotments.\*

*Local Authorities on default of whom functions may be exercised by the County Council :*

Town Councils.  
Urban District Councils.  
Parish Councils.  
Parish Meetings.

##### *As to Roads :*

Maintenance or repair of main roads undertaken by the defaulting Authority.†

Town Councils.  
Urban District Councils.  
Rural District Councils.

Maintenance or repair of highways.‡

Town Councils.  
Urban District Councils.  
Rural District Councils.

Maintenance of rights of way ; prevention of encroachment on roadside wastes.§

Rural District Councils.

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|| Electricity (Supply) Act, 1922, section 5 (1). But if the County Council receive or intend to receive a supply from the Joint Electricity Authority, they may provide financial assistance irrespective of the population of the County.

\* Small Holdings and Allotments Act, 1908, sections 24 and 61 (4) (Urban District Councils, Parish Councils, Parish Meetings) ; Land Settlement (Facilities) Act, 1919, section 25 and Second Schedule (Town Councils).

† Local Government Act, 1888, section 11 (8).

‡ Highways and Locomotives (Amendment) Act, 1878, section 10 ; Local Government Act, 1894, sections 16 (1) and (2) and 63.

§ Local Government Act, 1894, section 26 (4).



<i>As to Public Health:</i>	<i>Local Authorities on default of whom functions may be exercised by the County Council:</i>
Administration of any provisions of the Public Health Acts.**	Rural District Councils.
Provision of sewerage.**	Rural District Councils.
Provision of water supply, if danger to health arises from the existing supply, and a proper supply can be got at a reasonable cost.**	Rural District Councils.
Administration of the law relating to milk and dairies.††	Town Councils. Urban District Councils. Rural District Councils.
<i>As to Housing:</i>	
Provision of houses for the working classes.*	Town Councils. Urban District Councils. Rural District Councils.
Execution of reconstruction schemes.†	Town Councils. Urban District Councils. Rural District Councils.
Execution of improvement schemes.‡	Town Councils. Urban District Councils.
Enforcement of provisions for securing repair, maintenance, and sanitary conditions of houses.§	Town Councils. Urban District Councils. Rural District Councils.
Enforcement of provisions for Closing or Demolition Orders.	Rural District Councils.
<i>As to Town Planning:</i>	
Preparation and execution of town planning scheme.¶	Councils of Boroughs or Urban Districts with population of less than 20,000. Rural District Councils.

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\*\* Local Government Act, 1894, sections 16 (1) and (2), and 63.

†† Milk and Dairies (Amendment) Act, 1922, section 11 (2).

\* Housing Act, 1925, sections 73, 74 and 76.

† Housing Act, 1925, section 52.

‡ Housing Act, 1925, sections 52 and 56 (1) proviso.

§ Housing Act, 1925, section 23.

|| Housing Act, 1925, section 25.

¶ Town Planning Act, 1925, section 13.

### **Supervisory Functions of the County Council with respect to Public Health throughout the Administrative County.**

163. Seventhly, in addition to the performance of the specific functions as to public health already enumerated, the County Council are empowered to exercise a general supervision over public health administration throughout the Administrative County.

This supervision is exercised through the Public Health and Housing Committee of the Council and the County Medical Officer of Health and his staff.

The Council are required to appoint a Public Health and Housing Committee and a Medical Officer of Health.

#### **PROCEDURE UNDER WHICH THE COUNTY COUNCIL EXERCISE SUPERVISION.**

##### *Provisions of the Local Government Act, 1888.*

164. Under section 19 of this Act every Medical Officer of Health for a District within the Administrative County must send to the County Council a copy of every periodical report of which a copy is required to be sent to the Minister of Health; and if it appears to the County Council from any such report that the Public Health Act, 1875, has not been properly put in force within the District to which the report relates, or that any other matter affecting the public health of the District requires to be remedied, the Council may cause a representation to be made to the Minister of Health on the matter.

##### *Provisions of the Housing, Town Planning, etc., Act, 1909*

165. Under section 69 (2) of this Act the Medical Officer of Health of a District is required to give to the County Medical Officer of Health any information which it is in his power to give, and which the County Medical Officer of Health may reasonably require from him for the purpose of his prescribed duties.

The following statement on the subject of co-operation between County and District Medical Officers of Health has recently been published by the Minister of Health :\*

"In all matters pertaining to his duties the Medical Officer of Health of a District will naturally maintain close touch with the County Medical Officer, and an interchange of views may with advantage be sought, particularly in matters which affect the health of other Districts in the County. On his side the County Medical Officer should keep Medical Officers of Health of Districts informed of all matters which come to his knowledge affecting or likely to affect the public health within their respective areas, and should consult with the Medical Officer of Health of a District within the County whenever circumstances render this desirable. A County Medical Officer of Health intending to visit a District for purposes of inspection or inquiry in regard to any work for which the District Council is responsible should, whenever practicable, arrange to make such visits in the company of that Officer. He should also collaborate with Medical Officers of Health of Districts within the County in necessary enquiries and action in relation to infectious disease (particularly when more than one such District is concerned), and should from time to time inquire into and report upon the arrangements available for the isolation and treatment of cases of smallpox and of other infectious diseases in the County, and upon any need for further hospital, nursing or other provision."

**Functions which may be Exercised by the County Council with respect to the Constitution and Areas of other Local Authorities.**

166. Eighthly, the County Council are empowered to exercise functions with respect to the constitution and areas of Parish Councils, Rural District Councils, and Urban District Councils within the Administrative County.

These functions have been sufficiently described in the preceding Chapter of this Report.

**SECTION 7.—FUNCTIONS OF COUNTY BOROUGH COUNCILS.**

167. The functions which the Council of a County Borough are required or empowered to exercise cover the whole of the local government services dealt with in this Report which must or may be provided for the benefit of the inhabitants of the County Borough.

These functions are the sum of various functions of Councils of Boroughs which are not County Boroughs and of County Councils, and have already been enumerated in relation to those Authorities.

168. They are the functions of a County Borough Council because the Local Authority of a County Borough are at once

(a) The Council of a Borough by whom the Municipal Corporation act, and as such exercise the functions vested in the Corporation, including the functions of an Urban Sanitary Authority under the Public Health Acts;

(b) The Council of an Administrative County under the Local Government Act, 1888, and as such exercise the functions of a County Council under the Act, subject to the exceptions entailed by their position as the Council of a Borough; and

(c) The Authority to whom, as the Council of an Administrative County, functions have been assigned by numerous statutes since 1888.

**CHAPTER III.—THE EXERCISE OF THE FUNCTIONS OF THE LOCAL AUTHORITIES OF THE SEVERAL TYPES.**

**GENERAL INTRODUCTION TO CHAPTERS III AND IV.**

169. In this and the succeeding Chapter we propose to indicate as briefly as possible how Local Authorities exercise the functions assigned to them.

For this purpose we set out, first, the principal provisions of the existing law on the subject of the meetings of Local

Authorities and the rules under which their decisions are to be arrived at.

Then, since the work of Local Authorities is only in part carried out by means of the deliberations of the members of each Local Authority acting as a whole at meetings of the Authority, we consider the principal subsidiary means employed by Local Authorities in the transaction of their business. These means are the appointment of Committees and the appointment of officers by the Local Authority.

Finally, we consider in a separate Chapter the methods by which Local Authorities arrange, instead of acting separately, to act jointly with other Local Authorities, or with persons or bodies other than Local Authorities, or both, for the purpose of exercising functions which can better be exercised in this manner.

## SECTION 1.—THE MEETINGS AND DECISIONS OF LOCAL AUTHORITIES.

### Meetings of Local Authorities.

170. The following summary shows the provisions of the existing law which generally regulate the holding of annual and other meetings of Local Authorities, the notice to be given of such meetings, and the admission to them of members of the general public or ratepayers in the area.

<i>Local Authorities.</i>	<i>Annual Meeting.</i>	<i>Other Meetings.</i>	<i>Provisions as to Publicity.</i>
Parish Meetings : In Parishes not having a Parish Council.	Held between the 1st March and the 1st April.	At least one in every year must be held, and further meetings may be convened by the Chairman of the Parish Meeting.	At least seven clear days' notice of the meeting and the business must be given; and the meeting must not begin before six o'clock in the evening.
In Parishes having a Parish Council.	Held between the 1st March and the 1st April.	May be convened at any time by the Chairman, or by two members, of the Council, or by six electors.	As in Parishes not having a Parish Council.
Parish Councils.	Held on the 15th April or within seven days of that date.	At least three in every year must be held, and further meetings may be convened by the Chairman, or by two members, of the Council.	At least three clear days' notice of the meeting and the business must be given. Meetings are open to the public unless the Council otherwise direct.

MEETINGS AND DECISIONS OF LOCAL AUTHORITIES.

<i>Local Authorities.</i>	<i>Annual Meeting.</i>	<i>Other Meetings.</i>	<i>Provisions as to Publicity.</i>
Rural District Councils.	Held as soon after the 15th April as possible.	Must be held at least once a month, and at such other times as may be necessary.	The Council must make regulations as to notice of meetings. The express or implied consent of the Council is required to the admission of the public or rate-payers.
Urban District Councils.	As for Rural District Councils	As for Rural District Councils.	As for Rural District Councils.
Town Councils...	Held at noon on the 9th November.	At least three in every year must be held, and further meetings may be convened by the Mayor, or by five members of the Council.	At least three clear days' notice of the meeting and the business must be given. The express or implied consent of the Council is required to the admission of the public or rate-payers.
County Councils.	Held (a) in years for the election of the Council, on the 16th March or another day within 10 days of the retirement of the old Council, (b) in other years on a day in March, April, or May fixed by the Council.	At least three in every year must be held, and further meetings may be convened by the Chairman, or by five members, of the Council.	At least three clear days' notice of the meeting and the business must be given. The express or implied consent of the Council is required to the admission of the public or rate-payers.

ADMISSION OF PRESS REPRESENTATIVES TO MEETINGS.

171. The admission of representatives of the Press to meetings of Local Authorities of all types is specially regulated by statute.\*

They have a right to admission; but the Authority may temporarily exclude them when it is resolved by a majority of members present that this course is advisable in the public interest in view of the special nature of the business then being dealt with or about to be dealt with.

The right to admission does not extend to any meeting of a Committee of an Authority; but a Committee have power to admit representatives of the Press to their meetings.

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\* Local Authorities (Admission of the Press to Meetings) Act, 1908.

### The Decision of Questions at Meetings of Local Authorities.

172 From the following summary of the provisions of the existing law which lay down the conditions under which decisions may be taken at meetings of Local Authorities, it will be seen that the general view of Parliament is that

(a) Business should not be transacted at a meeting unless a reasonable proportion of the whole number of members of the Authority is present ;

(b) If a quorum is present, decisions should be taken by a majority of the members who are present and vote.

As an exception to the principle stated under the second head, Parliament has provided, first, in application to Parish Meetings, for which no quorum is fixed, for the reference of certain matters, on demand, to a vote of the electors ; and secondly, in application to other Local Authorities, for securing that a decision on specific questions, of which examples are given below, is not taken without the support of a more substantial proportion of the whole number of members of the Authority than is normally required.

<i>Local Authorities.</i>	<i>Rule Governing Decisions.</i>	<i>Certain Exceptions to the Rule.</i>
Parish Meetings.*	The majority of those present and voting decide.	A poll may be demanded (a) on matters specified in Rule 7, by any one elector present ; (b) on other matters, by not less than five electors present, or one-third of the electors present, whichever number is less ; and (c) on matters not specified in Rule 7, if the Chairman assents.
Parish Councils.†	One-third of the members must be present, provided that the quorum is not to be less than three. The majority of those present and voting decide.	
Rural District Councils.‡ Urban District Councils.‡	One-third of the members must be present, provided that the quorum is not to be more than seven. The majority of those present and voting decide.	Special majorities are required to authorize the following acts of (a) Rural District Councils or Urban District Councils only :— (a) Adoption of the Local Government and other Officers' Superannuation Act, 1922. A majority consisting of not less than two-thirds of the whole number of the Council present and voting at a special meeting.§

\* Local Government Act, 1894, section 2 (7) and First Schedule, Part One, Rules 5, 6 and 7.

† Local Government Act, 1894, section 3 (10) and First Schedule, Part Two, Rules 7 and 9.

‡ Public Health Act, 1875, section 199 and Schedule I, Rules 2 and 7 (Urban District Councils). These provisions are applied to Rural District Councils by

<i>Local Authorities.</i>	<i>Rule Governing Decisions.</i>	<i>Certain Exceptions to the Rule.</i>	
Rural District Councils ( <i>contd.</i> ) Urban District Councils ( <i>contd.</i> )		(b) Opposition to Bills in Parliament.	An absolute majority of the whole number of the Council at a special meeting.*
		(b) Promotion of Bills in Parliament.	An absolute majority of the whole number of the Council at two special meetings.*
Town Councils.†	One-third of the members must be present. The majority of those present and voting decide.	Special majorities are required to authorize the following acts of Town Councils:	
		Adoption of the Local Government and other Officers' Superannuation Act, 1922.	As above.
		Opposition to Bills in Parliament.	As above.
		Promotion of Bills in Parliament.	As above.
		Making byelaws for good rule and government.	Two-thirds of the whole number of the Council must be present.‡
		Giving notice to terminate the consolidation of Borough police with County police.	Three-fourths of the Council must agree.§
		Admission of honorary free-men of the Borough.	Two-thirds of the whole number of the Council present and voting.
		Alteration of boundaries of wards or number of councillors.	A majority of the whole number of the Council.¶

\* Borough Funds Act, 1872, section 4.

† Municipal Corporations Act, 1882, section 22 (1) and Second Schedule, Rule 10.

‡ Municipal Corporations Act, 1882, section 23 (2).

§ County Police Act, 1840, section 14.

|| Honorary Freedom of Boroughs Act, 1885, section 1.

¶ Municipal Corporations Act, 1882, section 30; Municipal Corporations Act, 1893, section 2; Borough Councillors (Alteration of Number) Act, 1925, section 1.

<i>Local Authorities.</i>	<i>Rule Governing Decisions.</i>	<i>Certain Exceptions to the Rule.</i>
County Councils.*	One-fourth of the members must be present. The majority of those present and voting decide.	<p>Special majorities are required to authorize the following acts of County Councils :</p> <p>Adoption of the Local Government and other Officers' Superannuation Act, 1922. As above.</p> <p>Opposition to Bills in Parliament.† As above.</p> <p>Promotion of Bills in Parliament.‡ As above.</p> <p>Making byelaws for good rule and government.§ As above.</p>

## SECTION 2.—THE APPOINTMENT OF COMMITTEES BY LOCAL AUTHORITIES.

173. The provisions of the existing law on the subject of the appointment of Committees by Local Authorities may be summarized as exhibiting two principles :

(a) That Local Authorities should be given power to appoint Committees for the purpose of transacting any part of their business which they think can be better transacted by this means ; and

(b) That for certain specific purposes Local Authorities may be required to appoint Committees, and that the constitution of these Committees may be more or less precisely defined by the statutes under which they are to be appointed

Particulars of the provisions governing the appointment of Committees are accordingly set out below as they fall under the foregoing heads.

### General Powers of Local Authorities to Appoint Committees.

#### PARISH MEETINGS.

174. Parish Meetings have power under section 19 (3) of the Local Government Act, 1894, to appoint Committees of their own number for any purpose which in their opinion would be better regulated and managed by means of a Committee.

All the acts of the Committee must be submitted to the Parish Meeting for their approval.

\* Local Government Act, 1888, section 75 and proviso (15).

† Local Government Act, 1888, section 15.

‡ County Councils (Bills in Parliament) Act, 1903, section 1.

§ Local Government Act, 1888, section 16.



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PARISH COUNCILS, RURAL DISTRICT COUNCILS, AND URBAN DISTRICT COUNCILS.

175. The Councils of Parishes, Rural Districts, and Urban Districts have power under section 56 of the Local Government Act, 1894, to appoint Committees, who may consist either wholly or partly of members of the Council, for the exercise of any powers which in the opinion of the Council can be properly exercised by Committees.

A Committee when appointed cannot hold office beyond the next annual meeting of the Council.

The acts of every Committee must be submitted to the Council for their approval, except that a Rural District Council or Urban District Council may authorize a Committee appointed for any of the purposes of the Public Health Acts or Highways Acts to institute any proceeding or do any act which the Council might have instituted or done for that purpose, other than the raising of any loan or the making of any rate or contract.

APPOINTMENT OF PAROCHIAL COMMITTEES BY RURAL DISTRICT COUNCILS.

176. Rural District Councils further have power under section 202 of the Public Health Act, 1875, to appoint a Parochial Committee for any area within their District, who may consist wholly of members of the Council, or partly of members and partly of other persons liable to contribute to the Poor Rate levied in the area for which the Committee are formed, and otherwise qualified as the Council may determine. Section 15 of the Local Government Act, 1894, provides that if persons other than members of the District Council are appointed, they must, where there is a Parish Council, be, or be selected from, the members of the Parish Council.

The functions of the Committee are assigned to them by the Council, and are limited by the provision that no powers may be delegated to them except the powers which the Council could exercise in the area for which the Committee are formed. The Committee are the agents of the Council who formed them, and the appointment of the Committee does not relieve the Council from any obligation which rests upon them under statute or otherwise.

A Parochial Committee may be empowered by the Council who formed them to incur expenses within a prescribed amount. They must report their expenditure to the Council as and when the Council direct; and the Council must discharge the amount so reported if the expenses have been legally incurred.

TOWN COUNCILS.

177. Town Councils have power, as urban Authorities under section 200 of the Public Health Act, 1875, to appoint from time to time out of their own number so many persons as they may

think fit for any purposes of the Act which in the opinion of the Council would be better regulated and managed by means of a Committee.

A Committee so appointed cannot be authorized to borrow money, to make a rate, or to enter into any contract, and are subject to any regulations and restrictions imposed by the Council who form them.

178. Town Councils, under section 22 of the Municipal Corporations Act, 1882, further have power to appoint from time to time out of their own body such and so many Committees, either of a general or special nature and consisting of such number of persons as they think fit, for any purposes which, in the opinion of the Council, would be better regulated and managed by means of such Committees.

The acts of every such Committee must be submitted to the Council for their approval.

#### COUNTY COUNCILS.

179 The provisions of section 22 of the Municipal Corporations Act, 1882, relating to the appointment of Committees are applied to County Councils by section 75 of the Local Government Act, 1888, so far as they are consistent with the terms of this Act.

Under section 82 (2) of the Act of 1888, every Committee of a County Council must report their proceedings to the Council; but, to the extent to which the Council direct, Committees of County Councils are not required, as Committees of Town Councils are, to submit their acts and proceedings to the Council for approval.

180. Under section 28 (2) of the Act of 1888, a County Council have power to delegate, with or without any restrictions or conditions as they may think fit, any function, except any power of raising money by rate or loan, transferred to them by or in pursuance of the Act, to any Committee of the Council appointed in pursuance of the Act.

#### Obligations of Local Authorities to Appoint Committees.

##### RURAL DISTRICT COUNCILS.

##### *Maternity and Child Welfare Committee.*

181. A Rural District Council who exercise powers under the Maternity and Child Welfare Act, 1918, or under section 2 of the Notification of Births (Extension) Act, 1915, must establish a Maternity and Child Welfare Committee.\*

The Committee may be an existing Committee of the Council, or a Sub-Committee of an existing Committee. The Council may appoint as members of the Committee persons specially qualified by training or experience in subjects relating to health

\* Maternity and Child Welfare Act, 1918, section 2.

and maternity who are not members of the Council, but not less than two-thirds of the members must be members of the Council, and at least two must be women.

If the duties of the Committee are discharged by an existing Committee, or Sub-Committee, any members appointed under the foregoing provision who are not members of the Council can act only in connexion with maternity and child welfare.

182. All matters relating to the exercise of the powers of the Council under the Acts of 1918 or 1915, except the power of raising a rate or of borrowing money, stand referred to the Committee; and the Council, before exercising any such powers, must receive and consider the report of the Committee with respect to the matter in question, unless in their opinion the matter is urgent.

The Council may also delegate to the Committee, with or without restrictions or conditions as they think fit, any of their powers under the Acts except the power of raising a rate or of borrowing money.

#### URBAN DISTRICT COUNCILS.

##### *Maternity and Child Welfare Committee.*

183. An Urban District Council who exercise powers with respect to maternity and child welfare must appoint a Maternity and Child Welfare Committee under the provisions set out above.

##### *Education Committee.*

184. An Urban District Council who are a Local Education Authority must have an Education Committee or Committees constituted in accordance with a scheme made by the Council and approved by the Board of Education.†

Every scheme constituting an Education Committee must provide—

(a) For the appointment by the Council of at least a majority of the Committee, the persons so appointed being members of the Council;

(b) For the appointment by the Council, on the nomination or recommendation, where it appears desirable, of other bodies (including associations of voluntary schools), of persons of experience in education, and of persons acquainted with the needs of the various kinds of schools in the area for which the Council act;

(c) For the inclusion of women as well as men among the members of the Committee.

Persons who are disqualified for membership of the Council by reason of holding an office or place of profit, or having any

† Education Act, 1921, section 4 and First Schedule.

share or interest in a contract or employment, are disqualified for being members of the Education Committee; but no such disqualification applies to a person by reason only of his holding office in a school or college aided, provided, or maintained by the Council.

185. All matters relating to the exercise by the Council of any powers connected with education, except the power of raising a rate or of borrowing money, stand referred to the Education Committee, and the Council, before exercising any such powers, must receive and consider the report of the Education Committee with respect to the matter in question, unless in their opinion the matter is urgent.

The Council may also delegate to the Education Committee, with or without any restrictions or conditions as they think fit, any powers connected with education except the power of raising a rate or borrowing money.

#### *Allotments Committee.*

186. The Council of an Urban District with a population of 10,000 or upwards\* must, unless exempted from this requirement by the Minister of Agriculture and Fisheries after consultation with the Minister of Health, establish an Allotments Committee. The Committee may be an existing Committee of the Council, or a Sub-Committee of an existing Committee.†

The members of an Allotments Committee must include persons, other than members of the Council, who are experienced in the management and cultivation of allotment gardens, and represent the interests of occupiers of allotment gardens in the area. But the number of such representative members must not be more than one-third of the total number of the members of the Committee, or be less than two, or one-fifth of the total number, whichever be the larger number.

187. All matters relating to the exercise by the Council of their functions under the Allotments Acts as respects the provision of allotment gardens, except the power of raising a rate or borrowing money, stand referred to the Allotments Committee, and the Council, before exercising any of these functions, must receive and consider the report of the Committee with respect to the matter in question, unless in their opinion the matter is urgent.

The Council may delegate to the Committee, with or without restrictions, any of their powers except the power of raising a rate or of borrowing money.

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\* The number is reckoned according to the published returns of the last Census for the time being: Allotments Act, 1922, section 22.

† Allotments Act, 1922, section 14.

*Local Pension Committee.*

188. The Council of an Urban District who are the Local Authority under the Old Age Pensions Acts must appoint a Local Pension Committee.

The persons appointed to be members of the Committee need not be members of the Council by whom they are appointed.

*Distress Committee.*

189. Under section 2 of the Unemployed Workmen Act, 1905, a Distress Committee must be appointed for every Urban District with a population according to the last Census for the time being of not less than 50,000, unless the area is covered by the organization applied to London (which may include Boroughs or Districts adjoining or near to London, the Councils of which apply to be so included). The provision requiring the appointment of a Distress Committee extends to any Urban District with a population according to the last Census for the time being of less than 50,000, but not less than 10,000, if the Council make an application for the purpose to the Minister of Health, and the Minister consents.

The Committee consist partly of members of the Council, and partly of members of the Board of Guardians of every Poor Law Union wholly or partly within the area, and of persons experienced in the relief of distress.

190. The Committee must make themselves acquainted with the conditions of labour within the area, and inquire into and discriminate between any applications made to them from persons unemployed. In cases which the Committee consider suitable for treatment under the Act they may be empowered to obtain work for the applicant; they may assist the emigration or removal to another area of an applicant and any of his dependants, or they may provide or contribute towards the provision of temporary work for an applicant with the object of putting him in a position to obtain regular work or other means of supporting himself.

191. A Distress Committee may be established by the Minister on the application of the Council of any Urban District, or if he thinks it expedient, without such application, with a similar constitution and similar functions to those of Distress Committees which must be appointed under the Act.

**TOWN COUNCILS.***Committees Described in Application to Urban District Councils.*

192. Town Councils who exercise powers with respect to maternity and child welfare, or are Local Education Authorities, or Authorities under the Old Age Pensions Acts, or under the Allotments Acts, or under the Unemployed Workmen Act, must establish the appropriate Committees under the provisions set out above in application to Urban District Councils.

*Watch Committee.*

193. If a Borough has a separate police force, the Town Council must from time to time appoint, for such time as they think fit, a sufficient number, not exceeding one-third, of their own body, who, with the Mayor, form the Watch Committee.\*

The Watch Committee exercise the following functions:—

(a) They must from time to time appoint a sufficient number of fit men to be Borough constables;

(b) They may from time to time frame such regulations as they deem expedient for preventing neglect or abuse, and for making the Borough constables efficient in the discharge of their duties;

(c) They may at any time suspend or dismiss any Borough constable whom they think negligent in the discharge of his duty or otherwise unfit to perform it;

(d) They must send to the Home Secretary a copy of all rules from time to time made by them or by the Council for the regulation and guidance of the Borough constables.†

The acts of the Watch Committee need not be submitted to the Council for approval, but payments on account of the expenses of the police force cannot be made without an order of the Council.‡

*Visiting Committee under the Lunacy Act, 1890.*

194. The Council of a Borough who are the Local Authority under the Lunacy Act, 1890, are required by section 169 of that Act to appoint annually a Visiting Committee. The Committee must consist of not less than seven members.

If a Borough has contributed towards the cost of any County asylum, and the representatives of the Borough on the County Council are not entitled to vote for the appointment by the Council of visitors of the asylum, the Town Council may appoint two persons to be members of the Committee.

If the Council are a Local Authority under the Act, but have contracted for the reception of the pauper lunatics of the Borough into a County asylum, they must appoint a Visiting Committee to visit the lunatics sent from the Borough in the asylum.

A Local Authority must exercise their powers conferred by the Act for providing asylum accommodation by a Visiting Committee, subject, if the Local Authority think fit, to their directions as to which of the methods of providing asylum accommodation authorized by the Act shall be adopted.§

195. At least two members of the Visiting Committee must together, once at least in every two months, inspect every part

\* Municipal Corporations Act, 1882, section 190.

† Municipal Corporations Act, 1882, sections 191 and 192.

‡ Municipal Corporations Act, 1882, section 140 and Fifth Schedule, Part II, Rule 5.

§ Lunacy Act, 1890, section 239.

of the asylum, and see every patient therein, and make other inquiries as directed by the Act.\* If the lunatics of the Borough are received under contract in a County asylum, not less than two members of the Visiting Committee of the Borough must together, at least once in every six months, visit the asylum and see and examine the lunatics received under the contract, and report the result of their visit to the Town Council.†

The Visiting Committee of every asylum must make an annual report in writing to the Local Authority to whom the asylum belongs on the state and condition of the asylum, its sufficiency to provide the necessary accommodation, its management and the conduct of the officers and servants, and the care of the patients. The Committee may in the report make such remarks in relation to any matters connected with the asylum as they think fit.‡

#### *Diseases of Animals Committee.*

196 A Town Council who are a Local Authority under the Diseases of Animals Acts must form and keep up a Committee for the purpose of administering the Acts in their area.

The Committee may consist wholly of members of the Council, or partly of members and partly of other persons who are rated occupiers in the Borough and are otherwise qualified.

The Council, except in so far as Orders of the Minister of Agriculture and Fisheries otherwise provide, may delegate all or any of their powers under the Acts, other than the power to make a rate, with or without conditions or restrictions to the Committee.

#### COUNTY BOROUGH COUNCILS.

##### *Committees Described in Application to other Local Authorities.*

197. County Borough Councils who exercise powers or are Authorities for the purposes enumerated in application to Town Councils generally must appoint the appropriate Committees. They are, further, the Local Authorities under the Mental Deficiency Act, 1913, and, in relation to small holdings, under the Small Holdings and Allotments Act, 1908, and must appoint the appropriate Committees under those Acts.

##### *Committee for the Care of the Mentally Defective.*

198. The Committee appointed by the Council under section 28 of the Mental Deficiency Act, 1913, are called the Committee for the Care of the Mentally Defective.

The Committee consist of such members of the Council appointed by the Council as the Council may determine; and of such other persons who are Poor Law Guardians, or have special knowledge and experience with respect to the care,

\* Lunacy Act, 1890, section 188.

† Lunacy Act, 1890, section 189.

‡ Lunacy Act, 1890, section 190.

control and treatment of defectives, as the Council may determine to appoint. Some of these latter persons must be women, and the majority of the whole Committee must be members of the Council.

If the Council have appointed one or more Visiting Committees or Asylums Committees under the Lunacy Acts, the members of these Committees must, if the Council so determine, act (with the addition of at least two women) as the Committee for the Care of the Mentally Defective; or the members of such Committee or Committees must be the members of the Council appointed to be members of the Committee for the Care of the Mentally Defective.

199. All matters relating to the exercise by the Council of their functions under the Act, except the power of raising a rate or borrowing money, stand referred to the Committee, and the Council, before exercising any such functions, must receive and consider the report of the Committee with respect to the matter in question, unless, in their opinion, the matter is urgent.

The Council may also delegate to the Committee, with or without any restrictions as they think fit, any of their powers under the Act, except the power of raising a rate or borrowing money.

#### *Small Holdings Committee.*

200. Under section 50 of the Small Holdings and Allotments Act, 1908, a County Borough Council must appoint a Small Holdings Committee consisting either wholly or partly of members of the Council. The members of the Council must be a majority of the Committee.

201. All matters relating to the exercise by the Council of their functions under the Act in relation to small holdings, except the power of raising a rate or of borrowing money, stand referred to the Committee, and the Council, before exercising any such functions, must receive and consider the report of the Committee with respect to the matter in question, unless in their opinion the matter is urgent.

The Council may also delegate to the Committee, with or without restrictions as they think fit, any of their powers under the Act, except the power of raising a rate or borrowing money; and they may appoint the Committee, if duly qualified\*, to be managers of the land acquired by the Council for allotments.

202. If the Council have appointed an Agricultural Committee (whom they are empowered, but not required, to appoint), the functions of the Small Holdings Committee must, in accordance with section 8 (2) of the Ministry of Agriculture

\* That is, they must either be members of the Council or persons who reside in the locality and contribute to the rate out of which the expenses of the Council under the Act are paid: Small Holdings and Allotments Act, 1908, sections 50 (4) and 29.



and Fisheries Act, 1919, be exercised by a Sub-Committee of the Agricultural Committee until the 31st March, 1926.

### COUNTY COUNCILS.

#### *Committees Described in Application to other Local Authorities.*

203. County Councils, as Local Authorities under the following Acts, must appoint the following Committees whose constitution and functions have already been described in application to Local Authorities of other types :—

<i>Acts.</i>	<i>Committees.</i>
Maternity and Child Welfare Act, 1918, and Notification of Births (Extension) Act, 1915.	Maternity and Child Welfare Committee.
Education Act, 1921.	Education Committee.*
Old Age Pensions Act, 1908.	Local Pension Committee.
Lunacy Act, 1890.	Visiting Committee.
Diseases of Animals Act, 1894.	Diseases of Animals Committee.†
Mental Deficiency Act, 1913.	Committee for the Care of the Mentally Defective.
Small Holdings and Allotments Act, 1908.	Small Holdings and Allotments Committee.‡

204. The constitution of County Education Committees differs from that of the Education Committee in other areas in that (a) the persons appointed by the County Council to be members of the Committee need not, if the Council so determine, be members of the Council, and (b) a separate Education Committee may be constituted for any area within a County.

205. The functions of the Committee appointed by the County Council under section 50 of the Small Holdings and Allotments Act, 1908, extend both to allotments and to small holdings, and not, as is the case with the Committee appointed by a County Borough Council under this provision, to small holdings only.

#### *County Rate Basis Committee.*

206. Under section 2 of the County Rate Act, 1852, as amended by section 3 (i) of the Local Government Act, 1888, a County Council must from time to time appoint a Committee to prepare a basis or standard for fair and equal County Rates, and to alter or amend such basis or standard from time to time as circumstances may require.

\* As to the allocation of matters relating to agricultural education between the Education Committees and the Agricultural Committees of County Councils, see paragraph 210 below.

† The functions of this Committee are now to be exercised by a Sub-Committee of the Agricultural Committee whom the Council are required to appoint under section 7 of the Ministry of Agriculture and Fisheries Act, 1919; see paragraph 211 below.

‡ The functions of this Committee are now to be exercised by a Sub-Committee of the Agricultural Committee until the 31st March, 1926; see paragraph 211 below.

The Committee must be not less than five in number, and not more than 11 in number unless there are more than 11 Petty Sessional Divisions in the Administrative County, when the Committee must be enlarged so as to provide for the representation of each of the Divisions.

*Finance Committee.*

207. Under section 80 (3) of the Local Government Act, 1888, a County Council must from time to time appoint a Finance Committee for regulating and controlling the finance of their County. The Committee must consist wholly of members of the Council.

An order for a payment out of the County fund, whether on account of capital or income, cannot be made by the Council, except in pursuance of a resolution of the Council passed on the recommendation of the Finance Committee, and (subject to the special provisions relating to the Standing Joint Committee which are dealt with below\*) any costs, debt, or liability exceeding £50 cannot be incurred except upon a resolution of the Council passed on an estimate submitted by the Finance Committee.

*Public Health and Housing Committee.*

208. Under section 71 of the Housing, Town Planning, etc. Act, 1909, a County Council must establish a Public Health and Housing Committee. The Committee must consist wholly of members of the Council.

All matters relating to the exercise by the Council of their functions as respects public health and housing, except the power of raising a rate or borrowing money, stand referred to the Public Health and Housing Committee, and the Council, before exercising any such functions, must receive and consider the report of the Committee with respect to the matter in question, unless in their opinion the matter is urgent.

The Council may also delegate to the Committee, with or without restrictions or conditions as they think fit, any of their powers as respects public health and housing except (a) the power of raising a rate or borrowing money, and (b) any power of resolving that the functions of a District Council who are in default shall be transferred to the County Council.

*Agricultural Committee.*

209. Under section 7 of the Ministry of Agriculture and Fisheries Act, 1919, a County Council must establish an Agricultural Committee constituted in accordance with a scheme made by the Council and approved by the Minister of Agriculture and Fisheries.

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\* See Chapter IV, paragraph 261.

The Committee may consist partly of persons who are not members of the Council, but every scheme for the appointment of a Committee must provide for the appointment by the Council of at least a majority of the Committee, and the persons so appointed must be members of the Council, unless the Council otherwise determine.

Every scheme must further provide for the appointment by the Minister of not more than one-third of the members of the Committee, and of any Sub-Committee to whom powers of the Committee are delegated; for the inclusion of women as well as men among the members of the Committee; and for the appointment of such persons only as have practical, commercial, technical, or scientific knowledge of agriculture, or an interest in agricultural land.

210. All matters relating to the exercise by the Council of functions under the Destructive Insects and Pests Acts, the Diseases of Animals Acts, the Fertilisers and Feeding Stuffs Act, 1906, the Land Drainage Act, 1918, and the Small Holdings and Allotments Act, 1908, and all other matters relating to agriculture, except matters standing referred to Education Committees under the Education Act, 1921, and except the raising of a rate or borrowing money, stand referred to the Agricultural Committee. The Council, before exercising any function in relation to matters referred to the Committee, must receive and consider the report of the Committee with respect to the matter in question, unless in their opinion the matter is urgent.

Any matter specified in an Order of the Minister made in consultation with the Board of Education, which relates to agricultural education, and would, but for the Order, stand referred to the Education Committee, may be directed by the Order to stand referred to the Agricultural Committee.

211. An Agricultural Committee must appoint a Small Holdings and Allotments Sub-Committee, and a Diseases of Animals Sub-Committee, to act respectively as the Committees which the County Council were required to establish under section 50 of the Small Holdings and Allotments Act, 1908,\* and as the Executive Committee appointed under the Diseases of Animals Act, 1894.\* The Small Holdings and Allotments Sub-Committee must include one or more members representing tenants of small holdings and allotments.

The functions of the Council under the Small Holdings and Allotments Act, 1908, and the legislation amending it, with the exception of the power of raising a rate or loan, are to be exercised by the Sub-Committee until the 31st March, 1926.

212. The Minister may authorize an Agricultural Committee, or a Sub-Committee, to exercise on his behalf, subject to any restrictions or conditions he thinks fit, any of his functions under

\* See paragraph 203.above.

Part II of the Land Drainage Act, 1918, or any powers in relation to land acquired by him under the Small Holding Colonies Acts, 1916 and 1918.

213. An Agricultural Committee have power to make such inquiries as appear to them to be desirable with a view to formulating schemes for the development of rural industries and social life in rural places, and for the co-ordination of action by Local Authorities and other bodies by whom such development may be effected. The Committee must report the result of such inquiries to the Minister and to any Local Authority or body concerned, and the expenses incurred in the exercise of this function must be defrayed by the Minister within an amount sanctioned by him with the approval of the Treasury.

### **SECTION 3.—THE APPOINTMENT OF OFFICERS BY LOCAL AUTHORITIES.**

#### **GENERAL.**

214. The general effect of the provisions of the existing law on the subject of the appointment of officers by Local Authorities is to give a full discretion to Local Authorities to appoint such officers as they please, to require in their officers such qualifications as they think proper, and to settle the remuneration and other conditions of service of the officers whom they employ.

The measure of discretion vested in Local Authorities in this matter is, however, qualified by the facts that

(a) Local Authorities are required by statute to make appointments to certain specified posts;

(b) The qualifications which must be possessed by officers appointed to a few posts are prescribed by statute or by subordinate legislation; and

(c) The remuneration and tenure of office of certain Medical Officers of Health and Sanitary Inspectors cannot be settled by Local Authorities without reference to the Minister of Health\*; and the tenure of office of engineers or surveyors in charge of roads is subject to control by the Minister of Transport in cases in which grants in aid of their salaries are made from the Road Fund.†

215. So far as the appointment of officers by Local Authorities is subject to special or general statutory provisions, the principal duties or powers assigned to Local Authorities for this purpose are mentioned in the following paragraphs.

#### **OFFICERS OF PARISH MEETINGS.**

##### *Overseers.*

216. Under section 19 (5) of the Local Government Act, 1894, it is the duty of a Parish Meeting to appoint the Overseers of the Parish.

\* For the details, see Ministry of Health (Gibbon), Appendix XLI (I, 206).

We were furnished with a statement of the duties of Overseers, and an explanation of the extent to which these duties are operative.‡

*Assistant Overseers.*

217. Section 19 (5) of the Act of 1894 also confers upon the Parish Meeting the power of appointing and revoking the appointment of an Assistant Overseer.

OFFICERS OF PARISH COUNCILS.

*Overseers.*

218. In parishes having a Parish Council it is the duty of the Council, under section 5 (1) of the Local Government Act, 1894, in each year at their annual meeting to appoint the Overseers of the parish.

*Assistant Overseers.*

219. Section 5 (1) of the Act of 1894 also confers upon the Parish Council the power of appointing and revoking the appointment of an Assistant Overseer.

*Treasurer.*

220. Section 17 (6) of the Act of 1894 empowers the Parish Council to appoint one of their own number, or some other person, to act as Treasurer without remuneration.

*Clerk of the Council.*

221. Under section 17 of the Act of 1894, the Parish Council may appoint one of their number to act as Clerk of the Council without remuneration.

If no member of the Council is appointed to act as Clerk, and there is an Assistant Overseer, he, or if there is more than one Assistant Overseer, the Assistant Overseer who is appointed by the Council, is to be the Clerk of the Council, and the performance of his duties as such is to be taken into account in determining his salary.

If there is no Assistant Overseer, the Council may appoint a collector of poor rates, or some other fit person, to be their Clerk, with such remuneration as they may think fit.

If the Parish Council are acting as a Parochial Committee by delegation from the District Council, they are to have the services of the Clerk of the District Council unless the District Council otherwise direct.

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‡ Ministry of Health (Gibbon), Appendix XXVI (I, 192), and Q. 3120-35 (I, 131).

## OFFICERS OF RURAL DISTRICT COUNCILS.

*Clerk and Treasurer.*

222. Under section 190 of the Public Health Act, 1875, a Rural District Council may pay such remuneration to the Clerk and Treasurer of the Guardians of any Union in respect of the additional duties of these officers under the Act as the Council, with the approval of the Minister of Health, determine.

If the Clerk of the Union is unable or unwilling to undertake such additional duties, the Assistant Clerk of the Union is to be appointed to discharge the duties on the same terms as to remuneration.

*Medical Officer of Health and Sanitary Inspector.*

223. Under section 190 of the Public Health Act, 1875, a Rural District Council must from time to time appoint fit and proper persons to be Medical Officer or Officers of Health and Sanitary Inspector or Inspectors.\*

224. Section 191 of the Act of 1875 required a Medical Officer of Health to be a legally qualified practitioner, and by section 18 of the Local Government Act, 1888, this requirement was extended so that a Medical Officer of Health must be qualified in medicine, surgery, and midwifery, unless the Minister of Health, for reasons brought to his notice, sees fit in special cases to allow the appointment of a Medical Officer not so qualified.

If a District (or combination of Districts) contained a population of 50,000 or more inhabitants according to the last published Census for the time being, sub-section (2) of the section provided that a person could not be appointed the Medical Officer of Health of the area unless, in addition to possessing the foregoing qualification, he either (a) held a diploma in sanitary science, public health, or State medicine, or (b) had been Medical Officer of an area with a population according to the last published Census of not less than 20,000 during three consecutive years before 1892, or (c) was a Medical Officer or Inspector of the Local Government Board for not less than three years before the 13th August, 1888.

225. Under the Sanitary Officers Order, 1922, a Medical Officer of Health is required to possess, in addition to the statutory qualifications, either (a) a diploma in public health, sanitary science, or State medicine, or (b) not less than three years' experience of the duties of a Medical Officer of Health, unless the Minister of Health dispenses with this requirement in any particular case.

226. The Order also disqualifies for appointment as a Sanitary Inspector (subject to the power of the Minister to dispense with this requirement), in any case in which there is no statutory

\* The title "Inspector of Nuisances" was altered to "Sanitary Inspector" by section 3 (1) of the Public Health (Officers) Act, 1921.

qualification, a person who does not hold a certificate of the Royal Sanitary Institute or of the Sanitary Inspectors' Examination Board.

*Officers Generally.*

227. A Rural District Council have power under section 190 of the Act of 1875 to appoint such officers and servants, other than those specially named in the Act, and assistants to officers, as may be necessary and proper for the efficient execution of the Act.

The same person may be both Surveyor and Sanitary Inspector, but a person who holds the office of Treasurer or Clerk is excluded by section 192 of the Act from holding the other office in person, or from being concerned with it through his partner or any person in the service or employ of either of them.

OFFICERS OF URBAN DISTRICT COUNCILS.

*Medical Officer of Health, Surveyor, Sanitary Inspector, Clerk, and Treasurer.*

228. Under section 189 of the Act of 1875, every urban Authority must from time to time appoint fit and proper persons to be the Medical Officer of Health, Surveyor, Sanitary Inspector, Clerk, and Treasurer.

Every urban Authority must also appoint or employ such assistant collectors and other officers and servants as may be necessary and proper for the efficient execution of the Act, and may make regulations with respect to the duties and conduct of the officers and servants so appointed or employed.

The requirements as to the qualifications of Medical Officers of Health and Sanitary Inspectors stated above in application to Rural District Councils apply to appointments to these posts made by urban Authorities.

*Overseers and Assistant Overseers.*

229. Under section 33 of the Local Government Act, 1894, the appointment of Overseers and Assistant Overseers, and the revocation of the appointment of Assistant Overseers, may be vested in an Urban District Council by an Order made by the Minister of Health on the application of the Council.

OFFICERS OF TOWN COUNCILS.

*Town Clerk.*

230. Under section 17 of the Municipal Corporations Act, 1882, a Town Council must from time to time appoint a fit person, not a member of the Council, to be the Town Clerk of the Borough.

The Town Clerk holds office during the pleasure of the Council.

The Town Clerk is given by the section the charge and custody of, and responsibility for, the Charters, deeds, records, and documents of the Borough, which must be kept as the Council direct.

*Treasurer.*

231. Under section 18 of the Municipal Corporations Act, 1882, the Council must from time to time appoint a fit person, not a member of the Council, to be the Treasurer of the Borough.

The Treasurer holds office during the pleasure of the Council.

The offices of Town Clerk and Treasurer must not be held by the same person.

*Medical Officer of Health and Sanitary Inspector.*

232. The requirements of the Public Health Act and the Sanitary Officers Order already stated as to the appointment of a Medical Officer of Health and Sanitary Inspector apply to Town Councils as Urban Sanitary Authorities under the Public Health Acts.

*Overseers and Assistant Overseers.*

233. The appointment of Overseers and Assistant Overseers, and the revocation of appointment of Assistant Overseers, may be vested in Town Councils under the provision stated above in application to Urban Districts.

*Other Officers.*

234. Under section 19 of the Act of 1882, a Town Council are required to appoint from time to time such other officers as have been usually appointed in the Borough, or as the Council think necessary, and may at any time discontinue the appointment of any officer appearing to them not necessary to be reappointed.

Under section 20 of the Act of 1882, the Council are to require every officer appointed by them to give such security as they think proper for the due execution of his office, and to allow him such remuneration as they think reasonable.

## OFFICERS OF COUNTY COUNCILS.

*Clerk of the Peace and of the County Council.*

235. Under section 83 of the Local Government Act, 1888, the Clerk of the Peace of a County, besides acting as Clerk of the Peace of that County, is also the Clerk of the County Council.

He is appointed from time to time by the Standing Joint Committee of the County Council and the Quarter Sessions.

The Clerk of the Peace, when acting in relation to any business of the County Council, must act under the direction of the County Council, and the Council must pay to the Clerk of the Peace in respect of his services, as such and as Clerk of the Council, such salary as may be fixed from time to time under the relevant statutes.



*County Treasurer.*

236. Under section 3 (x) of the Act of 1888, the appointment, removal, and determination of the salary of the County Treasurer are vested in the County Council.

*County Surveyor and other Officers.*

237. Under the foregoing provision of the Act of 1888, the appointment, removal, and determination of the salaries of the County Surveyor, the Public Analysts, any officers under the Explosives Act, 1875, and any officers whose remuneration is paid out of the County Rate, other than the Clerk of the Peace, are also vested in the County Council as part of the administrative business transferred to them from Quarter Sessions by the Act.

*Medical Officer of Health.*

238. Under section 68 of the Housing, Town Planning, etc. Act, 1909, every County Council must appoint a Medical Officer of Health.

A Medical Officer of Health of a County must not be appointed for a limited period only, must not engage in private practice, and cannot hold any other public appointment without the express written consent of the Minister of Health. He is removable by the County Council with the consent of the Minister of Health, and not otherwise.

The requirements of sub-section (2) of section 18 of the Local Government Act, 1888, as to the qualifications of a Medical Officer of Health of certain County Districts (or combinations of Districts) apply to appointments to the post of Medical Officer of Health of any County.

## CHAPTER IV.—THE EXERCISE OF FUNCTIONS BY LOCAL AUTHORITIES ACTING JOINTLY.

### GENERAL.

239. In this Chapter we describe the principal provisions of the existing law which enable Local Authorities to enter into arrangements for the joint exercise of local government functions, taking these provisions in order as they enable Local Authorities

(a) To enter into arrangements for specific purposes which involve the constitution of joint bodies with independent financial powers (usually entitled Joint Boards);

(b) To enter into arrangements either generally or for specific purposes which involve the constitution of joint bodies without independent financial powers (usually entitled Joint Committees);

(c) To enter into agreements with each other for specific purposes which do not necessarily involve the constitution of a Joint Board or Joint Committee; and

(d) To enter into arrangements with each other for work of a deliberative, as distinct from an executive, character, by the formation of advisory bodies.

The powers of Local Authorities under some of these provisions enable them to co-operate for the purpose of the exercise of their functions not only with each other but with persons or bodies other than Local Authorities having powers in relation to the particular matters in question.

### **SECTION 1.—PROVISIONS RELATING TO THE CONSTITUTION OF JOINT BODIES WITH INDEPENDENT FINANCIAL POWERS.**

#### **JOINT BOARDS UNDER THE PUBLIC HEALTH ACT, 1875.**

240. Under section 279 of the Public Health Act, 1875, the Councils of two or more Boroughs, Urban Districts, or Rural Districts, may apply to the Minister of Health to be formed into a united district for all or any of the following purposes :

- (a) Procuring a common water supply ; or
- (b) Making a main sewer, or carrying into effect a system of sewerage for the use of the united district ; or
- (c) For any other purposes of the Act of 1875.

On receiving an application the Minister may, if it appears to him that it would be for the advantage of the areas affected, or any of them, to be formed into a united district, form the district by Provisional Order, which requires confirmation by Parliament.

241. The governing body of a united district is a Joint Board consisting of such *ex officio* members, with such number of elected members, as the Minister determines by the Provisional Order forming the united district.

The Joint Board are a corporate body, and when they are constituted, the Local Authorities having jurisdiction in areas included in the united district cease to exercise the functions which are assigned to the Joint Board by the Provisional Order ; but the Minister may by Order authorize any of the constituent Local Authorities to exercise any of the powers of the Joint Board in their own area concurrently with their exercise by the Joint Board over the united district as a whole. A Joint Board may also delegate the exercise of any of their functions to the Local Authority of any constituent area.

242. Expenses incurred by a Joint Board, unless the Provisional Order provides otherwise, are defrayed out of a common fund contributed by the constituent areas in proportion to their rateable values.

For the purpose of obtaining payment from constituent areas of the sums to be contributed by them, the Joint Board issue their precept to the Local Authority of each area, stating the sum

to be contributed by the Authority, and requiring the Authority within a time limited by the precept to pay the sums mentioned to the credit of the Joint Board.

Under section 244 of the Act of 1875, Joint Boards have the power of borrowing money for the purposes of services which they administer on the credit of any fund or rate applicable by them to purposes of the Act, or on the credit of sewage land and plant. The power is of the same extent, and its exercise is subject to the same restrictions, as the borrowing powers conferred upon Local Authorities by the Act.

### *Operation of the Foregoing Provisions.*

243. We were informed that the number of Joint Boards constituted under the foregoing provisions was 123, of which 2 were constituted for purposes of water supply, 25 for purposes of sewerage and drainage, 89 for the administration of hospitals for infectious diseases, and 7 for other purposes of the Act.\*

244. We were also furnished with certain particulars of the expenditure (excluding loans) in 1919-20 of Joint Authorities for purposes of water supply, sewerage and drainage, and administration of hospitals for infectious diseases.† In these particulars Joint Boards and Joint Committees are not distinguished, and the transactions of certain joint bodies constituted by Local Acts are included; but the scale of the operations of Joint Authorities (including the Boards now in question) may nevertheless be deduced from them.

The particulars were as follows :

<i>Joint Authorities for</i>	<i>Total Number.</i>	<i>Number whose Expenditure (excluding Loans) in 1919-20 was</i>			
		<i>£100 and under.</i>	<i>Over £100 to £1,000.</i>	<i>Over £1,000 to £10,000.</i>	<i>Over £10,000.</i>
Water Supply ...	33	6	4	7	16
Sewerage and Drainage	46	2	10	24	10
Administration of Hos- pitals for Infectious Diseases.‡	154	9	49	80	16

\* Ministry of Health (Gibbon), Appendix XII, Table B (I, 159).

† Ministry of Health (Gibbon), Appendix XII, Table C (I, 159).

‡ We were furnished with separate particulars of the expenditure of Committees formed under the Isolation Hospitals Acts. These particulars are not included in the statement above, but are reproduced in paragraph 251 below.

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JOINT BOARDS UNDER THE HOUSING ACT, 1925.

245. Under section 112 of the Housing Act, 1925, the Minister of Health may by Order make provision for any Town Councils, Urban District Councils, or Rural District Councils, to act jointly for any purposes of the Act either generally or in any special case, if on the application of one of the Local Authorities concerned he is satisfied that it is expedient that any Local Authorities should act in this manner.

An Order made for this purpose has the same effect as a Provisional Order confirmed by Parliament for the establishment of a Joint Board under section 279 of the Public Health Act, 1875.

## PORT SANITARY AUTHORITIES UNDER THE PUBLIC HEALTH ACT, 1875.

246. Under section 287 of the Public Health Act, 1875, the Minister of Health may by Order constitute a Port Sanitary Authority for the whole or any part of a port by combining any two or more Riparian Authorities having jurisdiction within the port or any part of it, and may prescribe the mode of the joint action of the combining Authorities; or may form a Joint Board consisting of representative members of any two or more Riparian Authorities in the manner provided by the Act for the formation of Joint Boards under section 279; or may form a Port Sanitary Authority for any two or more ports by forming a Joint Board consisting of representative members of all or any of the Riparian Authorities having jurisdiction within such ports or any part of them.

If the Order constituting a Port Sanitary Authority is opposed by any Riparian Authority who will be required to contribute to the expenses of the Port Sanitary Authority, the Order must be treated as a Provisional Order, and accordingly requires confirmation by Parliament.

247. Orders constituting Port Sanitary Authorities may assign to the Authorities any functions under the Act of 1875, and any functions under the Infectious Disease (Prevention) Act, 1890, and may direct in what manner the expenses of the Authorities are to be paid; and Orders constituting a Joint Board the Port Sanitary Authority may contain regulations with respect to any matters for which regulations may be made by Provisional Orders constituting Joint Boards under section 279.

Under section 244 of the Act of 1875, Port Sanitary Authorities have the same powers of borrowing on the credit of any fund or rate applicable by them to purposes of the Act as are conferred by the Act on other Local Authorities, and are subject to similar restrictions in the exercise of these powers.

*Operation of the Foregoing Provision.*

248. We were informed that the number of Joint Port Sanitary Authorities constituted under the foregoing provision was 29, and

that the amount of the expenditure (excluding loans) of these Authorities in 1919-20 was as follows :\*

<i>£100 and under.</i>	<i>Over £100 to £1,000.</i>	<i>Over £1,000 to £10,000.</i>	<i>Over £10,000.</i>
6	13	10	nil

#### COMMITTEES UNDER THE ISOLATION HOSPITALS ACTS.

249. Under section 10 of the Isolation Hospitals Act, 1893, a County Council must form a Hospital Committee for every hospital district constituted by them under the Act.

The Committee may consist wholly of members of the County Council, or partly of representatives of the County Council, whether members of the Council or not, and partly of representatives of the local area or areas in the district, or wholly of such local representatives; but if no contribution is made by the County Council to the funds of the hospital, the Committee must consist, unless the constituent Local Authorities otherwise desire, wholly of representatives of the local area or areas in the district.

250. A Committee may, subject to any directions given by the County Council, purchase or lease land on which to erect an isolation hospital, and have all such other powers of providing a hospital by purchase or otherwise, and managing and maintaining the hospital when provided, as the County Council may delegate to them; but the County Council must retain the power of inspecting the hospital and of raising money by loan for the purposes of the hospital.

If the hospital district consists of more than one local area, all expenses incurred by the Committee, except patients' expenses and special patients' expenses, must be paid out of a common fund to which all receipts are carried, and to which the Local Authorities in the district must contribute in such proportions as the County Council by their Order constituting the district may determine.

The provisions of section 284 of the Public Health Act, 1875, under which Joint Boards issue precepts to the Local Authorities of constituent areas, apply to the sums to be contributed by Local Authorities in a hospital district as if the Hospital Committee were a Joint Board under the Act of 1875.

#### *Operation of the Foregoing Provision.*

251. We were informed that the number of Hospital Committees constituted under the foregoing provision was 67, and that the amount of the expenditure (excluding loans) of these Authorities in 1919-20 was as follows :\*

<i>£100 and under.</i>	<i>Over £100 to £1,000.</i>	<i>Over £1,000 to £10,000.</i>	<i>Over £10,000.</i>
5	17	44	1

\* Ministry of Health (Gibbon), Appendix XII, Table C (I, 159).

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RIVERS POLLUTION PREVENTION COMMITTEES UNDER THE LOCAL GOVERNMENT ACT, 1888.

252. Under section 14 (3) of the Local Government Act, 1888, the Minister of Health may by Provisional Order made on the application of any County Council concerned constitute a Joint Committee or other body representing all the Administrative Counties through or by which a river, or any specified portion of a river, or any of its tributaries, passes; and may confer on the Committee or body all or any of the powers of a Sanitary Authority under the Rivers Pollution Prevention Act, 1876.

253. The Order may provide for the payment of the expenses of the Committee or body by the Administrative Counties represented by it; and the Orders which have been confirmed by Parliament provide for the issue by the respective Committees of precepts for the sums required to meet their expenses to the Local Authorities whose representatives are members of the Committees.

JOINT ELECTRIC LIGHTING AUTHORITIES.

254. Under section 8 of the Electric Lighting Act, 1909, the Minister of Transport may, with the concurrence of the Minister of Health, make such provisions as appear to him necessary or expedient by the constitution of a Joint Committee or Joint Board or otherwise for the joint exercise of all or any of the powers under the Act of 1909 or earlier Acts, or under any Provisional Order, relating to electric lighting, by two or more Local Authorities as respects any area of supply consisting of the whole or parts of the districts of those Authorities.

*Operation of the Foregoing Provision.*

255. We were informed that Joint Boards had been constituted under this provision, and that similar Boards had been constituted by Local Acts.\*

JOINT ELECTRICITY AUTHORITIES UNDER THE ELECTRICITY (SUPPLY) ACTS.

256. Under sections 5 and 6 of the Electricity (Supply) Act, 1919, the Electricity Commissioners may make schemes, which require confirmation by the Minister of Transport and approval by resolution of each House of Parliament, for the establishment of a Joint Electricity Authority representative of authorized undertakers within the district covered by the scheme, either with or without the addition of representatives of the Council of any County situated wholly or partly within the district, Local Authorities, large consumers of electricity, and other interests.

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\* Electricity Commissioners (French), M. 14 (II, 330).

The scheme may provide for the exercise by the Joint Electricity Authority of all or any functions of the authorized undertakers within the district, and for the transfer to the Authority of the whole or any part of the undertakings of any of the undertakers on terms provided by the scheme.

257. Under section 1 of the Electricity (Supply) Act, 1922, a Joint Electricity Authority have powers to borrow money for the purposes of the exercise of their functions, subject to the consent of the Electricity Commissioners and under regulations made by the Minister of Transport with the approval of the Treasury.

*Operation of the Foregoing Provision.*

258. We were informed that no Joint Electricity Authorities had yet been established under the foregoing provisions.\*

JOINT ACTION BY LOCAL AUTHORITIES UNDER THE MENTAL DEFICIENCY ACT, 1913.

259. Under section 29 of the Mental Deficiency Act, 1913, an Order for the joint exercise of all or any of the functions of two or more Local Authorities under the Act may be made, on the application of one or more of the Authorities, by the Minister of Health.

The Minister may by the Order make such provisions as appear to him to be necessary or expedient, by the constitution of a Joint Committee or Joint Board, or otherwise, for the joint exercise of any of the functions of the Authorities by whom the application has been made; and the Order may provide how and in what proportions and out of what funds or rates the expenses incurred in the joint exercise of such functions are to be defrayed.

Unless all the Authorities concerned agree to the making of the Order, the Order is provisional only and requires confirmation by Parliament.

STANDING JOINT COMMITTEES IN COUNTIES FOR PURPOSES OF POLICE, ETC.

260. Under section 30 of the Local Government Act, 1888, a Standing Joint Committee of the Quarter Sessions and the County Council must be appointed in every County for the purpose of the police, and the Clerk of the Peace, and of Clerks of the Justices and joint officers, and of matters requiring to be determined jointly by the Quarter Sessions and the County Council.

The Standing Joint Committee consist of such equal number of Justices appointed by the Quarter Sessions, and of members of the County Council appointed by the Council, as may from time to time be arranged between the Quarter Sessions and the Council, or, in default of arrangement, of such number taken equally from the two bodies as may be directed by the Home Secretary.

\* Electricity Commissioners (French), Q. 5045, 5047 (II, 334).

261. All matters falling within the province of the Standing Joint Committee must be referred to them and determined by them. The acts and proceedings of the Committee are not required to be submitted to the County Council for their approval. All such expenditure as the Committee determine to be required for the purposes of these matters must be paid out of the County fund, and the County Council must provide for such payment.

## **SECTION 2.—PROVISIONS RELATING TO THE CONSTITUTION OF JOINT BODIES WITHOUT INDEPENDENT FINANCIAL POWERS.**

### **General Provisions.**

#### **JOINT COMMITTEES OF COUNCILS OF PARISHES, RURAL DISTRICTS, OR URBAN DISTRICTS.**

262. Under section 57 of the Local Government Act, 1894, the Councils of Parishes, Rural Districts, and Urban Districts have power to concur with any other Authority of these types in appointing out of their respective bodies a Joint Committee for any purpose in respect of which they are jointly interested, and in conferring, with or without conditions or restrictions, on any such Committee any powers, except a power to borrow money or to make any rate, which the appointing Council might exercise if the purpose related exclusively to their own Parish or District.

A Joint Committee appointed under this power cannot hold office for more than fourteen days after the next annual meeting of any of the Councils who appointed them.

The expenses of a Joint Committee are defrayed in such proportions as the Councils by whom the Committee are appointed may agree upon, or as may be determined in case of difference by the County Council.

### *Operation of the Foregoing Provision.*

263. We were informed that the number of Joint Committees of Councils of Rural Districts and of Urban Districts constituted under the foregoing provision was 263, of whom 9 were constituted for purposes of water supply, 16 for purposes of sewerage and drainage, 57 for the administration of hospitals for infectious diseases, 150 were Joint Burial Committees, and 31 were constituted for other purposes.\*

The particulars of the expenditure (excluding loans) in 1919-20 of Joint Authorities given in paragraph 244 above included the particulars furnished to us of the expenditure of Joint Committees constituted for purposes of water supply, sewerage and drainage, and administration of hospitals for infectious diseases.

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\* Ministry of Health (Gibbon), Appendix XII, Table B (I, 159).



The amount of the expenditure of the 150 Joint Burial Committees in that year was as follows :†

<i>£100 and under.</i>	<i>Over £100 to £1,000.</i>	<i>Over £1,000 to £10,000.</i>	<i>Over £10,000.</i>
20	117	13	nil.

#### JOINT COMMITTEES FOR THE ADMINISTRATION OF ADOPTIVE ACTS.

264. Section 53 of the Local Government Act, 1894, provides that so long as the area within the jurisdiction of an Authority who have put any of the Adoptive Acts in force is not comprised in one rural parish, the functions of the Authority under the Adoptive Acts shall be transferred to the Parish Councils of the parishes wholly or partly comprised in the area, or, if the area is partly comprised in an Urban District, to those Parish Councils and the Urban District Council.

The functions so transferred are to be exercised by a Joint Committee appointed by the Councils concerned, and if there is no Parish Council in any of the parishes concerned, the Parish Meeting take their place.

#### JOINT ACTION FOR THE EXECUTION OF WORKS.

265. Under section 285 of the Public Health Act, 1875, two or more Local Authorities (that is, Rural District Councils, Urban District Councils, or Town Councils) may combine together for the purpose of executing and maintaining any works that may be for the benefit of their respective areas or any part of them.

The sums which any Local Authority may agree to contribute for defraying expenses incurred under this provision are treated as expenses incurred by them in the execution of works within their own area.

#### JOINT COMMITTEES OF COUNTY COUNCILS.

266. Under section 81 of the Local Government Act, 1888, any County Council or Councils, and any Court or Courts of Quarter Sessions, may from time to time join in appointing out of their respective bodies a Joint Committee for any purpose in respect of which they are jointly interested.

The members of a Joint Committee appointed under this provision hold office for such time as may be fixed by the body who appoint them. But if any members of the Committee were appointed by the County Council, the Committee cannot hold office for more than three months after any election of councillors of the County Council.

† Ministry of Health (Gibbon), Appendix XII, Table C (I, 159).

267. Any Council or Court taking part in the appointment of a Joint Committee may from time to time delegate to the Committee any power, except a power of making a rate or borrowing any money, which the Council or Court might exercise for the purpose for which the Committee are appointed.

The costs of a Joint Committee are defrayed by the Council by whom any of the members were appointed, or, if members were appointed by more than one Council, are defrayed in the proportion agreed to by the appointing Councils.

268. The foregoing provisions apply to County Borough Councils, and a Standing Joint Committee may be appointed for two or more Administrative Counties inclusive of County Boroughs.

The members of a Standing Joint Committee are appointed by the several Councils or Courts in such proportion and manner as they respectively may arrange, or in default of arrangement, as may be directed by the Home Secretary.

#### *Operation of the Foregoing Provisions.*

269. We were informed that there had been constituted under the foregoing provisions 10 Joint Committees of County Councils (two for the administration of hospitals for infectious diseases, three for purposes of education, and five for other purposes), and three other Joint Committees for various purposes.\*

We were also informed that the expenditure (excluding loans) in 1919-20 of five Joint Committees of County Councils was in one case over £100 and not over £1,000, and in four cases over £1,000 and not over £10,000.†

### **Provisions for Specific Purposes.**

#### **APPOINTMENT OF MEDICAL OFFICERS OF HEALTH FOR UNITED DISTRICTS.**

270. Under section 286 of the Public Health Act, 1875, the Minister of Health may by Order unite two or more Districts situated wholly or partly in the same County for the purpose of appointing a Medical Officer of Health, if it appears to him on any representation made to him that such an appointment would diminish expense or otherwise be for the advantage of the Districts.

The appointment of the Medical Officer of Health for the united Districts is made by a Joint Committee consisting of members of the Local Authorities of the Districts which are united.

No Urban District containing a population of 25,000 or more, or, if the District is a Borough, having a separate Court of Quarter Sessions, can be included in a union of Districts for this purpose without the consent of the Local Authority of the area; and if

\* Ministry of Health (Gibbon), Appendix XII, Table B (I, 159).

† Ministry of Health (Gibbon), Appendix XII, Table C (I, 159).

the Local Authority of any District proposed to be included in the union object to the proposal, the Order including the District is provisional only, and requires confirmation by Parliament.

Regulations may be made by the Minister of Health as to the proportion in which the expenses of the appointment and of the salary and expenses of the Medical Officer of Health are to be borne by the Authorities of the Districts for which the Medical Officer is appointed.

#### JOINT TUBERCULOSIS COMMITTEES.

271. Under section 5 of the Public Health (Tuberculosis) Act, 1921, the Minister of Health may by Order, with the consent of the County and County Borough Councils concerned, make such provision as appears to him necessary or expedient for the joint exercise by such Councils of their functions in relation to the treatment of tuberculosis, by the constitution of Joint Committees or otherwise.

An Order may provide how, in what proportions, and out of what funds or rates, the expenses incurred by such Councils are to be defrayed.

#### JOINT LIBRARY COMMITTEES.

272. Under the Public Libraries Acts, 1892 and 1893, Parish Councils, Urban District Councils, or Town Councils, who exercise functions under the Acts, may form a Joint Committee consisting of members appointed by the several combining Authorities in such proportions as may be agreed upon.

The members of the Joint Committee need not be members of any of the combining Authorities.

Any such Committee may exercise such functions of a Library Authority as the combining Authorities may agree to confer upon them, except the power of borrowing money.

#### JOINT ACTION BY LOCAL AUTHORITIES UNDER THE LUNACY ACTS.

273. For the purpose of providing asylum accommodation under the Lunacy Act, 1890, a Local Authority are empowered by section 242 of the Act to agree to unite with any other Local Authority or Local Authorities in providing and maintaining a district asylum, or in using jointly an existing asylum as a district asylum.

Local Authorities who have entered into an agreement to unite must appoint a Visiting Committee for the district asylum, and the number of members of the Committee is fixed by the agreement under which the asylum is provided.

274. The agreement to unite must state the proportion in which the expenses of providing the asylum are to be borne by each Authority concerned, and the basis on which the proportion is fixed, or, if the agreement provides for the joint use of an existing asylum, the sum to be paid by each Authority concerned towards expenses already incurred.

The proportion in which the expenses of providing a district asylum are to be borne may be fixed either according to the extent of the accommodation required for each area concerned, or in proportion to the respective population of each area according to the last Census for the time being.

*Operation of the Foregoing Provision.*

275. We were furnished with particulars of the Local Authorities who have taken joint action under this provision which showed that substantial use is made of it.\*

JOINT BODIES UNDER THE TOWN PLANNING ACT, 1925.

276. Under sub-section (3) of section 5 of the Town Planning Act, 1925, the responsible Authority for enforcing observation of a town planning scheme, and for the execution of any works which are to be executed by a Local Authority under the scheme or under the Act, may be a Joint Body constituted specially for the purpose by the scheme, where land included in the scheme is in the area of more than one Authority, or is in the area of an Authority by whom the scheme was not prepared.

Provision may be made by the scheme for constituting the Joint Body and giving them the necessary powers and duties as the responsible Authority.

CO-OPERATION AND COMBINATION OF LOCAL AUTHORITIES  
UNDER THE EDUCATION ACT, 1921.

277. Under sub-section (1) of section 6 of the Education Act, 1921, a Local Authority having powers under the Act may, for the purpose of exercising any of their functions, enter into such arrangements as they think proper for co-operation or combination with any other Authority or Authorities having powers under the Act.

Any such arrangement may provide for the appointment of a Joint Committee, or a Joint Body of managers, for the delegation to that Committee, or Body, of any functions of the Authorities other than the power of raising a rate or borrowing money, and for the proportion of contributions to be paid by each Authority.

278. Under sub-section (2) of section 6, the Board of Education may, on the application of two or more Authorities having powers under the Act, make a scheme providing for the establishment and (if thought fit) the incorporation of a Federation for such purposes of any arrangements between the Authorities as may be specified in the scheme as being purposes relating to matters of common interest concerning education which it is necessary or convenient to consider in relation to areas larger than those of individual Education Authorities.

\* Board of Control (Willis and Trevor), Appendix XLVI (II, 230).

Authorities may arrange for the performance of any educational or administrative functions by a Federation as if it were a Joint Committee or a Joint Body of managers.

279. Schemes made by the Board constituting a Federation, and arrangements establishing a Joint Committee or a Joint Body of managers, must provide for the appointment of at least two-thirds of the members by Authorities having powers under the Act, and may provide either directly or by co-optation for the inclusion of teachers or other persons of experience in education, and of representatives of Universities or other bodies.

### *Operation of the Foregoing Provisions.*

#### *Establishment of Joint Committees.*

280. We were informed that under the foregoing provisions the County Councils of the three Ridings of Yorkshire, of Cumberland and Westmorland, and of Brecon and Radnor, had established Joint Committees to deal with agricultural education§; the West Sussex County Council and the Chichester Town Council had established a Joint Education Committee; five County Councils in Wales had established a Joint Committee for the North Wales Training College; certain Town and Urban District Councils had combined to establish a single Education Committee through which to exercise their powers of supplying or aiding the supply of higher education; and Authorities had combined to provide institutions for the joint use of the inhabitants of their areas, including institutions required for the needs of a considerable number of areas but not of a kind which any single Authority could be expected to provide. Training colleges, and certified schools for blind and deaf children, were mentioned as examples of institutions provided by these means.\*

#### *Constitution of Federations.*

281. We were informed that no Federation had yet been constituted under section 6 of the Act of 1921.†

#### *Expenditure of Joint Authorities for Purposes of Education.*

282. We were further informed that the expenditure (excluding loans) in 1919-20 of 33 Joint Authorities for purposes of education was as follows:‡

<i>£100 and under.</i>	<i>Over £100 to £1,000.</i>	<i>Over £1,000 to £10,000.</i>	<i>Over £10,000.</i>
1	2	21	9

§ Ministry of Agriculture and Fisheries (Floud), M. 38 (II, 271), Q. 4078-94 (II, 273).

\* Board of Education (Selby-Bigge and Barker), M. 18 (II, 404), M. 24 (II, 405).

† Board of Education (Selby-Bigge and Barker), M. 24 (II, 405).

‡ Ministry of Health (Gibbon), Appendix XII, Table C (I, 159).

## JOINT AGRICULTURAL COMMITTEES.

283. Under sub-section (6) of section 7 of the Ministry of Agriculture and Fisheries Act, 1919, any scheme for the appointment of an Agricultural Committee, whom a County Council must, and a County Borough Council may, establish, may provide for the execution of any of the functions of an Agricultural Committee by a Joint Agricultural Committee for any area formed by a combination of Counties or County Boroughs or parts thereof.

*Operation of the Foregoing Provision.*

284 We were informed that this provision was not operative. §

## JOINT COMMITTEES UNDER THE DISEASES OF ANIMALS ACTS.

285. Under sub-section (5) of section 39 of the Diseases of Animals Act, 1894, a Local Authority under the Acts may by agreement in writing concur with any other Local Authority or Authorities in appointing out of their respective bodies a Joint Committee consisting of such number of members as they may determine.

The agreement may provide for assigning to the Joint Committee a district consisting of the whole or any parts of the areas of the constituent Authorities, and for delegating to the Joint Committee within their district the whole or any part of the powers of a Local Authority. As regards any powers so assigned to them, the Joint Committee exercise the same functions in respect of their district as if the district were the district of a Local Authority, and the Joint Committee were a Local Authority under the Acts.

The powers which may be assigned to a Joint Committee do not include the power to make or levy a rate. Expenses incurred by the Joint Committee are apportioned among the areas of the constituent Authorities in proportion to the rateable values of the areas, and are paid out of the local rates of the constituent Authorities.

*Operation of the Foregoing Provision.*

286. We were informed that under this provision the County Councils of East and West Suffolk administered the Acts by a Joint Committee as if the two Administrative Counties were one.\*

## JOINT LOCAL FISHERIES COMMITTEES.

287 Under sub-section (2) of section 1 of the Sea Fisheries Regulation Act, 1888, the Local Fisheries Committee for a Sea Fisheries District must, if two or more County Councils who are

§ Ministry of Agriculture and Fisheries (Floud), M. 33 (II, 269).

\* Ministry of Agriculture and Fisheries (Floud), Q. 3936, 3938, and footnote (II, 265).

Authorities for the purposes of the Act appear to be interested, be a Joint Committee of those Councils, with the addition of members representing the fishing interests of the District.

The law relating to Joint Committees of County Councils applies, subject to the provisions of the Order constituting the Joint Committee, to the Local Fisheries Committee as if their functions were functions transferred by the Local Government Act, 1888, to the Authorities represented on the Committee, and were delegated to the Committee by the Authorities, and as if any Town Council represented on the Committee were a County Council.

The expenses of the Committee, so far as payable by County Councils, are general or special expenses within the meaning of the Local Government Act, 1888, according to the provision made on this point by the Order constituting the Committee, and if they are special expenses must be charged in the manner directed by the Order. The expenses of the Committee, so far as payable by a Town Council, must be paid out of the Borough Rate or Borough fund.

#### *Operation of the Foregoing Provision.*

288. We were furnished with a statement showing that two or more County or Town Councils appoint members of nine out of the eleven existing Local Fisheries Committees in England and Wales.\*

We were also informed that the expenditure (excluding loans) in 1919-20 of 13 Joint Local Fisheries Committees then existing was as follows:†

<i>£100 and under.</i>	<i>Over £100 to £1,000.</i>	<i>Over £1,000 to £10,000.</i>	<i>Over £10,000.</i>
1	8	3	1

#### JOINT COMMITTEES UNDER THE LIGHT RAILWAYS ACT, 1896.

289. Under section 17 of the Light Railways Act, 1896, the Councils of any Rural District, Urban District, Borough or County may appoint a Joint Committee for the purpose of any application for an Order authorizing a light railway under the Act, or for the joint construction or working of a light railway, or for any other purpose in connexion with such a railway for which it is convenient that the Councils should combine.

The provisions of the Local Government Acts of 1888 or 1894 with respect to Joint Committees apply to any Joint Committee appointed under this provision by Councils who could appoint a Joint Committee under the Local Government Acts.

If the Councils have no power under those Acts to appoint a Joint Committee, the appointment is subject to the provisions of

\* Ministry of Agriculture and Fisheries (Flound), Appendix XLIX (II, 278)

† Ministry of Health (Gibbon), Appendix XII, Table C (I, 159).

the Third Schedule to the Light Railways Act, which enable a Council taking part in the appointment of a Joint Committee to delegate to the Committee any power which the Council may exercise for the purpose for which the Committee are appointed, except any power of making a rate or borrowing money.

#### JOINT TRAMWAY UNDERTAKINGS.

290. Under section 17 of the Tramways Act, 1870, two or more Local Authorities may be authorized by Provisional Order made by the Minister of Transport and confirmed by Parliament to construct and own a tramway jointly.

#### *Operation of the Foregoing Provisions as to Light Railways and Tramways.*

291. We were informed that the number of systems of light railways and tramways operated by joint bodies of Local Authorities was 4, and that the mileage of these systems was 35 miles.†

### **SECTION 3.—PROVISIONS RELATING TO AGREEMENTS BETWEEN LOCAL AUTHORITIES FOR JOINT ACTION.**

#### **Joint Action by Police Authorities.**

##### APPOINTMENT OF CHIEF CONSTABLES OF COUNTIES.

292 Under section 2 of the County Police Act, 1857, a Standing Joint Committee may appoint as Chief Constable a person holding the same office in an adjoining County, subject to the consent of the Standing Joint Committee of that County.

#### *Operation of the Foregoing Provision.*

293. We were informed that the police forces of the three Divisions of Lincolnshire, of Cumberland and Westmorland, and of the Soke of Peterborough and Northamptonshire, were respectively united under one Chief Constable for executive purposes. The appointment of a single Chief Constable for Cumberland and Westmorland had, we were told, been supplemented by arrangements for questions affecting both forces to be considered by a Joint Sub-Committee of representatives of both Standing Joint Committees; but in Lincolnshire there was no such arrangement, except that under section 22 of the County and Borough Police Act, 1859, the superannuation fund for the three Divisions of the County is to be one common account so long as the County is under the direction of one Chief Constable, and is to be managed by a Joint Committee for the three

† Ministry of Transport (Rowntree), M. 95 (II, 398), Appendix LVIII, Table B (II, 400).



Divisions. This Committee consist, in accordance with the Police Superannuation Act, 1865, of 28 Justices drawn from the three Divisions of the County, who are now appointed by the Standing Joint Committees.\*

#### AGREEMENTS FOR THE LOAN OF POLICE.

294. Under section 25 of the Police Act, 1890, Police Authorities may enter into agreements for the loan of constables, in emergency, by one Authority to another.†

#### AGREEMENTS AS TO PLACES OF DETENTION.

295. Police Authorities may enter into agreements with each other for the purpose of establishing a place of detention which it is the duty of the Police Authority to provide in every Petty Sessional Division under section 108 of the Children Act, 1908, for the reception of children or young persons committed to, or detained in, custody under Part V. of the Act (which relates to juvenile offenders).

#### Joint Action by other Authorities.

##### JOINT ACTION UNDER THE INEBRIATES ACTS.

296. Under section 14 of the Inebriates Act, 1898, Local Authorities may combine for the purpose of contributing towards the establishment or maintenance of a retreat for voluntary cases; and under section 9 of the Act, Local Authorities may combine for the purpose of establishing or maintaining reformatories for committed cases, or of defraying the whole or part of the expenses of detention of any person committed to a reformatory.

##### AGREEMENTS AS TO REFORMATORIES AND INDUSTRIAL SCHOOLS.

297. Under section 74 of the Children Act, 1908, Local Authorities may combine, with the approval of the Home Secretary, for the purpose of establishing or supporting a reformatory school; and under the same section Local Education Authorities may, with the approval of the Home Secretary, agree to combine for the purpose of establishing or maintaining an industrial school.

##### JOINT ACTION UNDER THE WEIGHTS AND MEASURES ACTS.

298. Under section 52 of the Weights and Measures Act, 1878, Local Authorities have power to combine, as regards either the whole or any part of the areas within their jurisdiction, for all or any of the purposes of the Act, upon such terms and in such manner as they may from time to time agree upon; and an

\* Home Office (Dixon), M. 9-10 (II, 233), Q. 3651-4 (II, 233).

† Home Office (Dixon), Q. 3655-65 (II, 233), Appendix XLVII (II, 256).

inspector appointed in pursuance of an agreement for such combination is given (subject to the terms of his appointment) the same powers and duties as if he had been appointed by each of the Authorities concerned.

*Operation of the Foregoing Provision.*

299. We were informed that this provision had been very little utilized, although in certain instances an inspector appointed by a County Council was also appointed by Town Councils who were Authorities under the Acts to be inspector within the Boroughs; and occasionally a Town Council agreed to merge their administration of the Acts in that of the County Council.‡

AGREEMENTS BETWEEN DRAINAGE AUTHORITIES.

300. Under section 6 of the Land Drainage Act, 1918, a Local Authority who are a Drainage Authority may, with the consent of the Drainage Authority of any adjoining area, execute and maintain works in the adjoining area on behalf of the other Authority on such terms as may be agreed upon between the Authorities. They may also agree to contribute to the expense of the works executed or maintained by the Authority of any adjoining area.

Any expenses incurred under these provisions are defrayed as if they had been incurred by an Authority in their own drainage area.

*Operation of the Foregoing Provision.*

301. We were informed that use is very rarely, if ever, made of this provision.\*

REPRESENTATION ON GOVERNING BODIES OF HARBOURS,  
DOCKS, OR PIERS.

302. In cases in which harbours, docks, or piers are vested in bodies of Trustees or Commissioners, more than one Local Authority may be represented on the governing body of the undertaking.†

The representation of Local Authorities is settled, subject to confirmation by Parliament, by Provisional Orders made by the Minister of Transport under section 15 of the General Pier and Harbour Act, 1861. Under this provision the Minister may constitute or alter the constitution of the governing body, and may give them powers to execute works on which the estimated expenditure does not exceed £100,000, and to levy rates or dues,

‡ Board of Trade (Sears), M. 7 (II, 293), Q. 4309-13 (II, 294).

\* Ministry of Agriculture and Fisheries (Floud), Appendix LI, paragraph 14 (II, 281).

† Ministry of Transport (Rowntree), M. 60 (II, 392), where examples of such representation are given.

or alter existing rates or dues in respect of the undertaking, to make byelaws for its management, and to borrow money.

#### JOINT ACTION AS TO FERRIES.

303. Under section 1 (3) of the Ferries (Acquisition by Local Authorities) Act, 1919, Local Authorities may combine for the purchase or acceptance, working, maintenance, or improvement of a ferry, or may contribute towards expenditure on these purposes by other Local Authorities.

Any difference which arises between Local Authorities who are acting jointly, or jointly bearing any expenses, under this provision, is to be determined by the Minister of Transport or by an arbitrator appointed by him.

#### AGREEMENTS FOR PURPOSES OF ELECTRICITY SUPPLY.

304. Under section 19 of the Electricity (Supply) Act, 1919, any two or more Local Authorities or other authorized undertakers may enter into and carry into effect arrangements for mutual assistance with regard to

(a) The giving and taking of a supply of electricity and the distribution and supply of the electricity so taken;

(b) The management and working of the generating stations or any part of the several undertakings of the undertakers who are parties to the arrangement;

(c) The provision of capital required for carrying into effect, and the appropriation and division of receipts arising under, any such arrangement.

#### *Operation of the Foregoing Provision.*

305. We were informed that this provision had been freely resorted to by Local Authorities and other bodies who undertake the supply of electricity, and had resulted in many economies being effected in the supply.\*

### **SECTION 4.—PROVISIONS RELATING TO THE CONSTITUTION OF JOINT ADVISORY BODIES.**

#### JOINT COMMITTEES UNDER THE TOWN PLANNING ACT, 1925.

306. Under proviso (ii) to section 2 (1) of the Town Planning Act, 1925, Rural District Councils, Urban District Councils, or Town Councils, who are desirous of acting jointly in the preparation or adoption of a town planning scheme, may concur in appointing out of their respective bodies a Joint Committee for the purpose.

The Authorities by whom a Committee are appointed may confer on the Committee, with or without restrictions, any powers

\* Electricity Commissioners (French), M. 14 (b) (II, 330).

which the appointing Authorities might exercise for the purpose, and the provisions of sections 57 and 58 of the Local Government Act, 1894, in regard to Joint Committees, apply with the necessary modifications to any Joint Committee appointed under this provision.

307. We were informed that, in practice, Committees constituted under this provision had hitherto as a rule been given advisory powers only; and that in any event the execution of schemes, as distinct from the preparation of plans, would probably be left to the constituent Local Authorities acting separately.\*

*Operation of the Foregoing Provision.*

308. We were informed that the number of Joint Town Planning Committees constituted under the foregoing provision was 12, and the number of constituent Local Authorities 170. The number of Authorities by whom the Joint Committees were constituted varied from 73, the constituent Authorities of the Committee for Manchester and surrounding areas, to 5, the constituent Authorities of the Committee for Rotherham and surrounding areas. The acreage, population, and rateable value of areas for which Joint Committees had been formed were approximately 1,184,000,  $5\frac{1}{2}$  millions, and £31,700,000 respectively.†

ADVISORY BODIES UNDER THE ELECTRICITY (SUPPLY) ACTS.

309. The Electricity (Supply) Acts, 1919 and 1922, enable the Electricity Commissioners, as an alternative to the establishment of a Joint Electricity Authority, to secure the establishment of advisory bodies for the purpose of facilitating the provision of a cheap and abundant supply of electricity in the district concerned.

*Operation of the Foregoing Provision.*

310. We were informed that two Orders had been made by the Commissioners providing for the establishment of advisory bodies for this purpose, the areas affected being the South-West Midlands Electricity District and the South-East Lancashire Electricity District.‡

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\* Ministry of Health (Gibbon), M. 172 (I, 75).

† Ministry of Health (Gibbon), Appendix XX (I, 175).

‡ Electricity Commissioners (French), M. 21 (II, 331).

**CHAPTER V.—FINANCE OF LOCAL AUTHORITIES.****INTRODUCTORY.**

311. Taxation is raised for local purposes, that is, for purposes for which Local Authorities are authorized to incur expenditure, mainly by Local Authorities, but also partly by Your Majesty's Government with the authority of Parliament.

Broadly speaking, the taxation raised by Local Authorities takes the form of rates; and that part of the national taxation which is raised for local purposes is placed at the disposal of Local Authorities by one of two methods, namely,

(a) By handing over to them either an amount on account of the produce of certain taxes (fixed by reference to the actual produce of the taxes in a particular year), or the actual produce of certain taxes; or

(b) By paying to them grants in aid of the cost of services locally administered by them, the payment being made by the Government Departments concerned with the respective services.

**SECTION 1.—RATES.****General.****NATURE OF RATES.**

312. Rates are imposts which are levied by Local Authorities on persons occupying property situated within the area of the Local Authority, for the payment of expenses incurred on services locally administered.

**PERSONS LIABLE TO PAY RATES.**

313. The rule of the existing law is that rates are charged upon occupiers. The principal exceptions to that rule are that

(a) Owners may, by special agreement, become answerable for the payment of rates;

(b) Owners of dwellings of small value may be rated instead of the occupiers of the dwellings, either by agreement or by order of the Local Authority.

**PROPERTIES ON WHICH RATES ARE PAID.**

314. Properties liable to be assessed to local rates are

(a) Those expressly mentioned in the Poor Relief Act, 1601, namely, lands, houses, tithes, coal mines, and saleable underwoods;

(b) Those falling under the category of "lands" or "houses", such as warehouses and manufactories containing machinery, railway lines and stations, tramways, waterworks, gas and electricity works, docks, telegraph and telephone wires;

(c) Those expressly made liable by Parliament since 1601, namely, tithe rentcharge substituted for tithes, mines other than coal mines, woods and plantations, sporting rights, and land used for exhibition of advertisements.

#### HOW RATES ARE CALCULATED.

315. Every year or half-year a Local Authority make an estimate of the total expenses which will be incurred during the next twelve or six months in the exercise of their functions.

From that total the Local Authority subtract the amount of any receipts which they receive in moneys raised by national taxation or otherwise than in rates.

The balance has to be raised by a rate. The share which each ratepayer has to pay of the total amount to be raised by a rate is in the proportion which the value of the property occupied by him in the area bears to the total value of the rateable property in the area.

#### VALUATION OF PROPERTY FOR RATING.

##### *General: Valuation for the Purposes of the Poor Rate.*

316. The value of property for purposes of rating is determined in the first instance by a valuation for which the Overseers of parishes are responsible.

The Overseer has to prepare, and to revise from time to time, a valuation list, showing all the rateable properties in the parish and the amounts at which they are valued.

The basis of the valuation is annual value, that is, the rent which a hypothetical tenant may reasonably be expected to give for the privilege of occupying each property.

317. In cases in which neither the particular property in question, nor any closely resembling it, is let at a full rent (as in the case of municipal buildings, workhouses, hospitals, or clubs), a percentage on the capital value of the site, and of the structure thereon, is often taken as a *prima facie* measure of the rent which a tenant would be likely to give.

In other cases, in which no rent is actually paid and the cost of the construction is not held to be a true test of value (as in the case of railways, canals, tramways, or docks), the valuation is arrived at by making certain deductions from the gross receipts of the undertaking.

318. The Overseer has to include in the valuation list particulars of

(a) The gross estimated rental (in the sense explained above) of each property;

(b) The net annual value, or *rateable value*, which is the gross estimated rental less an allowance for the cost of repairs and other similar necessary outgoings.

319. The valuation list is submitted for approval to the Assessment Committee appointed by the Board of Guardians of the Poor Law Union from members of the Board.\*

The Committee must satisfy themselves of the accuracy of the list and must hear any objections to the valuations.

There is an appeal to the Courts by ratepayers, Overseers, or Parish Councils, against the valuations approved by the Assessment Committee.

The valuation list as approved by the Assessment Committee (with any amendments necessitated by decisions of the Courts on appeals) becomes the list in force in the parish, and all rates are levied in accordance with it.

320 In the absence of any specific provision to the contrary, the rates are levied at the same amount in the £ on the full annual value of all rateable property in the area.

The amount in the £ levied is the amount needed to produce in rates the proportion of the total expenses of the Local Authorities for the period in question which has to be raised by this means.

*Special Valuations for the Purposes of the County Rate and the Borough Rate.*

321 The special valuations which County Councils and Town Councils have power to make for the purposes of the County Rate and the Borough Rate respectively are mentioned below in the footnotes to paragraphs 329 and 331.

PROPERTY EXEMPT FROM RATING.

322. Certain classes of property are not rateable, including

- Stock-in-trade and other movable property ;
- Unoccupied property ;
- Property occupied by or for the Crown, on which a contribution equivalent to the rates that would otherwise be leviable is paid out of national taxation ;
- Militia storehouses and premises held by County Associations exclusively for the purposes of the Territorial Force ;
- Lighthouses ;
- Places of religious worship and certain schools in connexion with them ;
- Non-provided schools ;
- Land and buildings belonging to scientific, literary, and artistic societies not conducted for profit ; and
- Tithe rentcharges attached to a benefice, which obtain total exemption in cases in which the total income from the benefice or benefices held does not exceed £300, and exemption of 50 per cent. of the amount otherwise payable in rates in cases in which the total income exceeds £300 but does not exceed £500 ; and the owners of which, as regards any rate made after the 1st April, 1920, and before the 1st January, 1926, are not required to pay more in respect of this property than they would be liable to pay if the rate were made at an amount in the pound equal to the amount in the pound at which the corresponding rate in 1918 was made.

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\* If the Union is co-terminous with a Borough, the Board may arrange that they and the Town Council shall appoint equal numbers of members of the Assessment Committee.

**The Principal Rates Levied: Their Incidence: The Expenses towards which they are Applied.**

**A.—The Poor Rate.**

323. The principal rate by which taxation is raised by Local Authorities is the Poor Rate.

**INCIDENCE OF THE POOR RATE.**

324. The Poor Rate is levied in respect of the full net annual value of all rateable properties according to the valuation lists, subject to two exceptions created by the Agricultural Rates Acts, 1896 and 1923, and the Tithe Rentcharge (Rates) Act, 1899.

*Special Incidence upon Agricultural Land.*

325. Under the Agricultural Rates Acts, 1896 and 1923, occupiers of agricultural land are liable to pay in respect of such land one quarter only of the rate in the pound payable in respect of buildings and other hereditaments.

The Acts apply to all rates except

(a) Those to which before 1923 the occupiers of agricultural land were already liable to be assessed at one quarter only, or less; and

(b) Those assessed under any Commission of Sewers, or in respect of any drainage or other work benefiting the land.

The Acts provide for a grant from national taxation in respect of the deficiency in the produce of rates arising from the reduction of rates on agricultural land.

*Special Incidence upon Tithe Rentcharge.*

326. Under the Tithe Rentcharge (Rates) Act, 1899, owners of tithe rentcharge attached to a benefice are liable to pay in respect of such tithe rentcharge one half only of the ordinary Poor Rate.

The Act provides for a grant from national taxation in respect of the deficiency in the produce of rates arising from this variation of their normal incidence.

**THE POOR RATE IS RAISED FOR (A) EXPENSES OF BOARDS OF GUARDIANS.**

327. The Poor Rate, as its name suggests, is in origin, (a), the rate by which the Board of Guardians obtain the proportion of their expenses which has to be defrayed by the ratepayers.

In so far as the Poor Rate is levied for the purpose of meeting expenses of Boards of Guardians, the manner in which it is levied is that the Guardians of each Union apportion the amount required to be raised in the Union among the several parishes in proportion to their valuation; and the Authorities who make the rate are the Overseers of each parish, who determine the number of pence in the pound required to produce the parochial quota.



*Expenses of Guardians towards which the Poor Rate is Applied.*

328. The principal expenses of Guardians towards which the part of the Poor Rate raised on their account is applied are the expenses incurred by them in the administration of the following services :

Relief of the poor.	Infant life protection under Part I
Vaccination.	of the Children Act, 1908.
Registration of births and deaths.	

THE POOR RATE IS RAISED FOR (B) EXPENSES OF  
COUNTY COUNCILS.

329. Secondly, (b), the rate raised for the purpose of meeting expenses of County Councils, generally called the County Rate or County Contributions, is technically a part of the Poor Rate.

The manner in which this part of the Poor Rate is levied is that for the purpose of raising the amount required the County Council apportion the total to be raised in the Administrative County among the several parishes in proportion to their valuation either by the Assessment Committee for the purposes of the Poor Rate, or by the Council for the purposes of the County Rate\* ; and send an order, known as a precept, for the sums thus determined to the Guardians of the several Unions comprising the parishes.

It is then the duty of the Guardians to see that the sum named in the precept is levied by the Overseers of the respective parishes.

*Expenses of County Councils towards which the Poor Rate is Applied.*

330. The principal expenses of County Councils towards which the part of the Poor Rate raised on their precepts is applied are the expenses incurred by them in the administration of the following services :

Education (elementary and higher).	Protection of wild birds.
Main roads and bridges.	Reformatory and industrial schools.
Police (except in the Metropolitan Police District).	Protection of ancient monuments.
Small holdings.	Welfare of the blind.
Prevention and treatment of disease.	Destruction of rats and mice.
Lunatic asylums.	Destruction of insect pests.
Registration of electors and preparation of jury lists.	Diseases of Animals Acts.
Provision for mental deficiency.	Fish conservancy.
Maternity and child welfare and notification of births.	Inspection of gas meters.
Public libraries.	Land drainage.
Regulation of advertisements.	Licensing of cinematograph premises.
Rivers pollution prevention.	Local stamps.
Inspection of weights and measures.	Locomotives and motor cars.
	County buildings.
	Costs of prosecution of felonies etc., at Assizes and Sessions.
	Salaries of certain County officers.

\* If the County Council make a separate valuation of any parish or parishes for the purpose of the County Rate, with a view to arriving at a uniform basis of assessment for all parishes liable to the rate, they do so through the County Rate Basis Committee (see Chapter III, paragraph 206).

THE POOR RATE MAY BE RAISED FOR (C) EXPENSES OF TOWN COUNCILS OTHER THAN EXPENSES INCURRED UNDER THE PUBLIC HEALTH ACTS OR DEFRAIDED AS SUCH.

331. Thirdly, (c), the rate raised for the purpose of meeting expenses of Town Councils (other than expenses incurred in the execution of the Public Health Acts or expenses directed to be defrayed as if they were expenses under those Acts), generally called the Borough Rate, may be, and usually is, collected as part of the Poor Rate.

The manner in which the Borough Rate, if collected as part of the Poor Rate, is levied is that for the purpose of raising the amount required the Town Council apportion the total to be raised in the Borough or County Borough among the several parishes in proportion to their valuation either by the Assessment Committees for the purposes of the Poor Rate, or by the Council for the purposes of the Borough Rate\*; and send a precept for the sums thus determined to the Overseers of the several parishes liable to the Rate.

It is then the duty of the Overseers to pay the contributions required from the several parishes, which they levy as part of the Poor Rate

*Expenses of Town Councils towards which the Borough Rate (whether Levied as part of the Poor Rate or not) is Applied.*

332. The principal expenses of Town Councils towards which the Borough Rate, whether levied as part of the Poor Rate or not, is applied, are the expenses incurred by them in the administration of the following services :

(i) *Both in Non-County Boroughs and in County Boroughs.*

Education.	Protection of ancient monuments.
Police.	Destruction of insect pests.
Tramways.	Regulation of advertisements.
Public libraries.	Municipal buildings.
Diseases of Animals Acts.	Remuneration of Mayor, Recorder.
Registration of electors.	Stipendiary Magistrate, and
Lunatic asylums.	certain Borough officers.
Inspection of weights and measures.	Prosecution, maintenance, etc., of
Burial grounds.	offenders committed for trial.†

(ii) *In County Boroughs only.*

In addition to expenses on the services specified under head (i) above, expenses on such of the services administered by County Councils in Administrative Counties, and by County Borough Councils in County Boroughs, as are not incurred under the Public Health Acts or defrayed as such.

THE POOR RATE IS RAISED FOR (D) EXPENSES OF URBAN DISTRICT COUNCILS ON (i) EDUCATION, AND (ii) IN SOME DISTRICTS, BURIAL GROUNDS.

333. Fourthly, (d), the rate raised for the purpose of meeting expenses of Urban District Councils on education and (in

\* Town Councils may (but seldom do) make a separate valuation for the purposes of the Borough Rate, and, if they do so, have somewhat similar powers to those of the County Rate Basis Committees of County Councils.

† In Boroughs having a separate Court of Quarter Sessions.

some Districts) burial grounds, is collected as part of the Poor Rate.

The manner in which the amount required is levied is that the Urban District Council apportion the total between the parishes liable on the basis of their valuation for the purposes of the Poor Rate, and send precepts for the sums thus determined to the Overseers.

#### THE POOR RATE IS RAISED FOR (E) GENERAL EXPENSES OF RURAL DISTRICT COUNCILS.

334. Fifthly, (e), the rate raised for the purpose of meeting expenses of Rural District Councils which affect a District as a whole is raised as part of the Poor Rate.

The amount required is levied in the same manner as that part of the Poor Rate raised to meet expenses of Urban District Councils.

#### *Expenses of Rural District Councils towards which the Poor Rate is Applied.*

335. The principal expenses of Rural District Councils towards which the Poor Rate is applied are :

(i) All expenses on services administered for the benefit of the District as a whole, that is, general expenses, which usually comprise expenses on the following services :

Highways and bridges.	Establishment expenses and salaries.
Housing.	Expenses on any other services not determined by the Public Health Acts, the Open Spaces Act, 1906, or by Order of a central Authority, to be special expenses.
Maternity and child welfare and notification of births.	
Town planning.	
Regulation of commons.	
Maintenance of rights of way.	
Administration of Petroleum Acts.	

(ii) Expenses on services administered for the benefit of a part only of the District, that is, special expenses, if the amount required to be raised is less than £10, or is so small that a rate required to raise it would be less than 1d. in the £ ; and

(iii) Special expenses which the Minister of Health has directed to be raised in the same manner as general expenses.

#### THE POOR RATE IS RAISED FOR (F) EXPENSES OF PARISH COUNCILS AND PARISH MEETINGS.

336. Sixthly, (f), the rate raised for the purpose of meeting expenses of Parish Councils and Parish Meetings is raised as part of the Poor Rate.

The amount required is levied by precept of the Parish Council or Parish Meeting on the Overseers.

#### *Expenses of Parish Councils and Parish Meetings towards which the Poor Rate is Applied.*

337. The principal expenses of Parish Councils and Parish Meetings towards which the Poor Rate is applied are the

expenses incurred by them in the administration of the following services :

Allotments.	Maintenance of rights of way and public footpaths.
Baths and washhouses.	Maintenance of village greens.
Burial grounds.	Appeals in respect of valuation lists, Poor Rates, or County Rates.
Closed churchyards.	Vestry rooms or parochial offices.
Commons.	Parish Meetings and polls consequent thereon.
Fire engines.	
Open spaces.	
Parish property.	
Recreation grounds and public walks.	

#### THE POOR RATE IS RAISED FOR (G) EXPENSES OF OVERSEERS.

338. Seventhly, (g), the rate raised for the purpose of meeting the expenses of Overseers is raised as part of the Poor Rate.

#### *Expenses of Overseers towards which the Poor Rate is Applied.*

339. The principal expenses of Overseers towards which the Poor Rate is applied are the expenses incurred by them in the administration of the following services :

Maintenance of closed burial grounds.	Fire engines (in rural parishes without Parish Councils).
Prosecution of keepers of brothels and disorderly houses.	Preparation of valuation lists.
Relief to poor persons in cases of sudden and urgent necessity.	Salaries of Vestry Clerk, Assistant Overseer, and paid parish constables (if any).
Removal to asylums of pauper lunatics or lunatics wandering at large, etc.	Vestry rooms and parochial offices (in urban parishes).

#### **B.—The General District Rate.**

340. The rate next in importance to the Poor Rate by which taxation is raised by Local Authorities is the General District Rate.

#### INCIDENCE OF THE GENERAL DISTRICT RATE.

341. The General District Rate is levied in respect of the full net annual value of all rateable properties according to the valuation lists, subject to the exception that certain properties, namely, agricultural land (including market gardens and orchards), tithe rentcharge, railway lines, canals, and other land covered with water, are assessed to this rate at one quarter only of their annual value.

THE GENERAL DISTRICT RATE IS RAISED FOR EXPENSES OF (A) TOWN COUNCILS AND (B) URBAN DISTRICT COUNCILS INCURRED UNDER THE PUBLIC HEALTH ACTS OR DEFRAIDED AS SUCH.

342. The General District Rate is the rate by which Town Councils and Urban District Councils obtain the proportion which has to be defrayed by the ratepayers of their expenses incurred in the administration of

(i) Services provided under the Public Health Acts :  
and

(ii) Services the expenses of which are directed to be defrayed in the same manner as the expenses of services provided under the Public Health Acts.

*Expenses of Town Councils and Urban District Councils towards which the General District Rate is Applied.*

343. The principal expenses of Town Councils and Urban District Councils towards which the General District Rate is applied are the expenses incurred by them in the administration of the following services :

Highways.	Public conveniences.
Sewers.	Sanitary regulation of factories and workshops.
Scavenging.	Slaughter houses.
Housing.	Allotments.
Waterworks.	Inspection of canal boats.
Gas supply.	Regulation of storage of celluloid and cinematograph film.
Tramways.	Destruction of rats and mice.
Public pleasure grounds.	Town planning.
Hospitals.	Land drainage.
Cemeteries.	Administration of Locomotives Acts.
Public lighting.	Administration of Rag Flock Act.
Fire brigades.	Regulation of advertisements.
Baths and washhouses.	Regulation of servants' registries.
Maternity and child welfare and notification of births.	Ambulances.
Prevention of adulteration of food.	Maintenance of rights of way and commons.
Regulation of cellar dwellings.	Provision of public clocks.
Inspection of dairies, cowsheds, and milkshops.	Burial grounds.
Control of infectious diseases.	Contributions to cost of new roads and bridges over canals, railways, or tramways.
Control of lodging houses.	Public libraries, museums, schools for science, etc.*
Markets.	
Mortuaries and crematoria.	
Inspection of nuisances.	
Rivers pollution prevention	
Prevention and treatment of disease.	

**Other Rates Levied : Their Incidence : The Expenses towards which they are Applied.**

344. The total amount received by Local Authorities (outside London) in rates in 1919-20 was nearly £86 millions.

Of this amount about £54½ millions was received from Poor Rates and nearly £22 millions from General District Rates.†

345. The rest of the total amount of £86 millions, that is £9½ millions, was partly made up of rates applied to the same purposes as Poor Rates or General District Rates, but separately levied (Borough Rates in certain Boroughs) or differently collected (consolidated rates of urban Authorities) : and partly of rates levied in various areas in special circumstances.‡

\* In Urban Districts only.

† Ministry of Health (Gibbon), Appendix XXV, paragraph 2 (I, 190).

‡ Ministry of Health (Gibbon), Appendix XXV, paragraphs 1 and 2 (I, 190).

The nature, incidence, and purposes of these special rates may be summarized as follows :

<i>Area, and Special Rates which may be Levied Separately.</i>	<i>Services for which Special Rates may be Levied Separately.</i>	<i>Incidence of Special Rates.</i>
PARISH. Lighting Rate...	Lighting roads and streets ; providing and maintaining fire engines.	The incidence of the Poor Rate, except that the rate in the pound on houses, buildings, and property other than land must be four times as great as the rate on agricultural land within the meaning of the Agricultural Rates Act, 1923, and three times as great as the rate on other land, tithes, and tithe rentcharges.
Library Rate ...	Providing public libraries, museums, or art galleries.	The incidence of the Poor Rate, except that (a) an allowance of three-quarters of the sum assessed must be made on arable, meadow, and pasture land, orchards, allotments, cottag gardens over a quarter of an acre, market gardens, and nursery grounds ; (b) an allowance of two-thirds must be made on woodlands ; and (c) tithe rentcharges attached to a benefice must be rated at one-half during the continuance of the Agricultural Rates Act, 1896.
RURAL DISTRICT (parts of). Rates for Special Expenses.	Services provided for the benefit of the part of the District rated.	The incidence of the General District Rate. An allowance of three-quarters must also be made on cottage gardens over a quarter of an acre.
URBAN DISTRICT. Highway Rate...	Repair of highways in parts of the District where there are not rates for paving, sewerage, or water supply.	The incidence of the Poor Rate.
BOROUGH. Highway Rate...	Repair of highways in parts of the Borough where there are not rates for paving, sewerage, or water supply.	The incidence of the Poor Rate.

<i>Area, and Special Rates which may be Levied Separately.</i>	<i>Services for which Special Rates may be Levied Separately.</i>	<i>Incidence of Special Rates.</i>
BOROUGH— <i>contd.</i> Watch Rate ...	Maintenance of police force in a Borough or part of a Borough where a watch rate might be levied at the commencement of the Municipal Corporations Act, 1882.	The incidence of the Poor Rate.
Borough Rate*	All services for which neither the General District Rate nor a special rate is levied.	The incidence of the Poor Rate.
ADMINISTRATIVE COUNTY (parts of). Rates for special expenses collected in the Poor Rate as part of the County Rate	Expenses of services provided for the benefit of the part of the County rated.	The incidence of the Poor Rate.
BURIAL AREAS. Burial Rate ...	Provision and maintenance of burial grounds.	The incidence of (a) the Poor Rate in Rural Districts; (b) the Poor Rate or the General District Rate in Urban Districts; and (c) the Borough Rate in Boroughs.
AREAS OF SANITARY AUTHORITIES. Private Improvement Rates	Improvement of property carried out by the Local Authority for the owner or occupier.	Upon the owner or occupier benefited.
LANDS (MAINLY AGRICULTURAL). Sewer Rates and Land Drainage Rates	Drainage of lands and prevention of flooding under the Sewers Commissions Acts and the Land Drainage Acts.	According to benefit received.

## SECTION 2.—CONTRIBUTIONS FROM NATIONAL TAXATION.

### A.—Assigned Revenues.

346. The amounts paid to Local Authorities from or on account of the proceeds of national taxation, but not related to the cost of specific services from year to year, are known as the assigned revenues.

\* As stated above (paragraph 331) the Borough Rate is usually levied as part of the Poor Rate.

The amounts received by Local Authorities in England and Wales from the assigned revenues in 1919-20 were approximately as follows :\*

In grant under the Agricultural Rates	£
Act, 1896 ... ..	1,323,000
In other assigned revenues ... ..	7,746,000

### B.—Grants for Specific Services.

347. The amounts paid to Local Authorities in England and Wales from the proceeds of national taxation, and related to the expenditure of the Authorities on the administration of the services for which they are locally responsible, were in 1919-20 approximately as follows :†

Service aided by Grant.	Amount of Grant.
	£
Education ... ..	29,306,000
Police ... ..	8,417,000
Highways, Bridges and Ferries ... ..	3,166,000
Public Health ... ..	1,508,000
Relief of the Poor ... ..	1,071,000
Provision for Lunacy ... ..	1,066,000
Provision for Mental Deficiency ... ..	125,000
Land Drainage, etc.... ... ..	61,000
Small Holdings and Allotments ... ..	51,000
Harbours, Docks, Piers, Canals and Quays ... ..	30,000
Electric Light Supply Undertakings ... ..	26,000
Fire Brigades ... ..	10,000
Housing ... ..	3,000
Other Grant-Aided Services ... ..	743,000
	<u>£45,583,000</u>

### SECTION 3.—OTHER SOURCES OF INCOME.

348. In addition to the amounts raised by rates and the amounts paid to them from the proceeds of national taxation either in assigned revenues or in Exchequer grants, Local Authorities have the following sources of income.

#### Income of Reproductive or Trading Undertakings.

349. The amounts received by Local Authorities in England and Wales from the income of these undertakings, which are, in the main, undertakings for the supply of water, gas, electricity, tramways and omnibuses, light railways, ferries, markets,

\* Second Annual Report of the Ministry of Health, 1920-21 [Cmd. 1446], page 101.

† Ministry of Health (Gibbon), Appendix XVII (I, 166).



cemeteries, harbours, docks, piers, and canals, were in 1919-20 approximately as follows\* :

<i>Local Authorities:</i>	<i>Amounts received:</i>
	£
Rural District Councils ... ..	307,000
Urban District Councils ... ..	4,972,000
Town Councils :	
Non-County Borough Councils ...	6,219,000
County Borough Councils ... ..	47,869,000
County Councils ... ..	87,000†
	<hr/>
	£59,454,000

### Income from Fees, Rents, etc.

350. The amounts received by Local Authorities in 1919-20 in fees, tolls, fines, penalties, rents, recoupments and other miscellaneous receipts were approximately as follows\* :

<i>Local Authorities:</i>	<i>Amounts received:</i>
	£
Parish Councils ... ..	121,000
Rural District Councils ... ..	1,280,000
Urban District Councils ... ..	2,943,000
Town Councils :	
Non-County Borough Councils ...	2,734,000
County Borough Councils ... ..	8,245,000
County Councils ... ..	3,797,000
	<hr/>
	£19,120,000

## SECTION 4.—BORROWING POWERS OF LOCAL AUTHORITIES.

351. The powers of Local Authorities to borrow money are conferred by statutory provisions. The general object of these provisions is to enable Local Authorities to borrow for the purpose of exercising functions which could not be properly exercised if expenditure upon them were limited to amounts which Local Authorities could defray out of their current income.

352. The principal provisions of the existing law relating to the borrowing powers of Local Authorities may be summarized as follows‡ :—

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\* Local Taxation Returns, England and Wales, 1919-20, Parts II and III.

† From light railways.

‡ Special borrowing powers obtained under Local Acts, and separate borrowing powers of Joint Boards, are excluded.

<i>Local Authorities, and Purposes for which Money may be Borrowed.</i>	<i>General Limitations.</i>	<i>Special Limitations.</i>	<i>Services for which Money may be Borrowed outside the foregoing Limitations.</i>
PARISH COUNCILS.—			
1. Purchasing land or building buildings which the Council are authorized to purchase or build.	1. The approval of the Parish Meeting and the County Council and the sanction of the Minister of Health are required for any loan.	The sum raised in any financial year for expenses in respect of loans, except loans under Adoptive Acts,* must not be more than the equivalent of a rate of 6d. in the £ on the rateable value of the parish.	Allotments.
2. Any purpose for which the Council are authorized to borrow under any of the Adoptive Acts.	2. The Council's borrowing power is limited to a sum not exceeding half of the assessable value to the Poor Rate of premises in the parish.		
3. Any permanent work or other thing within the authority of the Council the cost of which ought, in the opinion of the County Council and the Minister of Health, to be spread over a term of years.			
4. Raising capital sums payable under financial adjustments.			
RURAL DISTRICT COUNCILS.—			
1. Defraying expenses incurred under the Public Health Acts on permanent works, which include works the cost of which ought in the opinion of the Minister of Health to be spread over a term of years.	1. The sum of loans outstanding under the Public Health Acts must not exceed twice the assessable value of the District.	The sum of loans outstanding under the Public Health Acts which are charged as special expenses on a contributory place in the District must not exceed twice the assessable value of the contributory place.	1. The Council may borrow for any purposes of the Public Health Act, 1875, without the sanction of a central Authority, on the credit of their sewage lands and works; but the amount which may be so borrowed is limited to three-fourths of the purchase money of the land. Beyond this limit the general limitation on loans outstanding under the Public Health Acts applies.
2. Discharging loans contracted under the Sanitary Acts or the Public Health Acts.	2. The sum of loans outstanding for all purposes must not exceed the assessable value of the District, unless the Minister of Health after local inquiry sanctions loans beyond this limit.†		
3. Defraying expenses incurred under other Public General Acts which authorize borrowing.			

\* That is, loans for baths and washhouses, burial grounds, and public libraries are not subject to this limitation.

† Public Health Act, 1875, section 234 (3), temporarily suspended by the Local Authorities (Financial Provisions) Act, 1921, and the Local Authorities (Emergency Provisions) Act, 1923.

<i>Local Authorities, and Purposes for which Money may be Borrowed.</i>	<i>General Limitations.</i>	<i>Special Limitations.</i>	<i>Services for which Money may be Borrowed outside the foregoing Limitations.</i>
<p>RURAL DISTRICT COUNCILS—<i>cont.</i></p> <p>4. Raising capital sums payable under financial adjustments.</p>			<p>2. The Council may borrow for the purposes of the Public Libraries Acts to an amount not exceeding twice the assessable value of the District.</p> <p>3. Allotments, Electric Lighting, Housing.</p> <p>4. Works undertaken by the Council with a view to the provision of employment for unemployed persons.</p>
<p>URBAN DISTRICT COUNCILS.— As for Rural District Councils.</p>	<p>Borrowing by Urban District Councils is subject to the general limitations which apply to borrowing by Rural District Councils.</p>		<p>Money may be borrowed by Urban District Councils for the purposes specified above in application to Rural District Councils, and in addition for the purposes of the Burial Acts and of education.</p>
<p>TOWN COUNCILS.—</p> <p>1. Purchasing land, or building any building which the Council are authorized to build by the Municipal Corporations Act, 1882.</p> <p>2. Building, altering, and repairing municipal buildings.</p> <p>3. Maintaining and improving Borough bridges.</p> <p>4. Defraying expenses incurred under the Public Health Acts.</p> <p>5. Discharging loans contracted under the Sanitary Acts or the Public Health Acts.</p> <p>6. Raising capital sums payable under financial adjustments.</p> <p>7. Defraying expenses under other Public General Acts which authorize borrowing.</p>	<p>Borrowing by Town Councils acting as Sanitary Authorities is subject to the general limitations which apply to borrowing by Rural and Urban District Councils.</p>		<p>1. Services administered under the Municipal Corporations Act, 1882.</p> <p>2. Allotments, Education, Electric Lighting, Housing, Expenses under the Burial Acts.</p> <p>3. Works undertaken by the Council with a view to the provision of employment for unemployed persons.</p>

<i>Local Authorities, and Purposes for which Money may be Borrowed.</i>	<i>General Limitations.</i>	<i>Special Limitations.</i>	<i>Services for which Money may be Borrowed outside the foregoing Limitations.</i>
<p>COUNTY COUNCILS.—</p> <ol style="list-style-type: none"> <li>1. Consolidating the debt of the County.</li> <li>2. Purchasing land or building buildings which the Council are authorized to purchase or build.</li> <li>3. Any permanent work or other thing within the authority of the Council the cost of which ought, in the opinion of the Minister of Health, to be spread over a term of years.</li> <li>4. Making advances (under guarantee) in aid of emigration or colonization.</li> <li>5. Raising capital sums payable under financial adjustments.</li> <li>6. Any purpose for which Quarter Sessions or the County Council are authorized by any Act to borrow.</li> </ol>	<p>A loan can only be borrowed in pursuance of a Provisional Order of the Minister of Health if the total debt of the County Council, after deducting the amount of any sinking fund, exceeds (or will exceed if the loan is borrowed) one-tenth of the rateable value of the County.</p>		<ol style="list-style-type: none"> <li>1. Education, Public Libraries, Small Holdings.</li> <li>2. Works undertaken by the Council with a view to the provision of employment for unemployed persons.</li> </ol>

353. We were informed that the net loan debt of Local Authorities, except Poor Law Authorities, outside London, at the end of 1919-20 was £341,000,000, a sum equivalent to £10 7s. per head of the population; and that of the gross debt at the end of 1919-20, 56 per cent. was for trading services (supply of water, gas, and electricity, tramway undertakings, and harbour undertakings), 14·2 per cent. for public health services and mental hospitals, and 8·7 per cent. for education.\*

#### SECTION 5.—EXPENDITURE OF LOCAL AUTHORITIES.

354. We were furnished with the following particulars of the expenditure of Local Authorities for the year 1919-20, and of the proportion of the total expenditure of the Authorities of the

\* Ministry of Health (Gibbon), M. 115 (I, 54).

several types which was incurred on the principal services administered by them.\*

355. The total expenditure of all Local Authorities, except Poor Law Authorities, outside London,† was in round figures :

	£
On services other than trading services ...	153,800,000
On trading services ...	77,300,000
	<hr/> 231,100,000

356. The total of £153,800,000 spent by Local Authorities on services other than trading services was made up of expenditure by

	£
County Councils ...	49,500,000
County Borough Councils ...	62,900,000
Town Councils (other than County Borough Councils)...	13,400,000
Urban District Councils ...	16,600,000
Rural District Councils ...	7,500,000
Other Authorities ...	3,900,000
	<hr/> £153,800,000

357. The total of £77,300,000 spent by Local Authorities on trading services was made up of expenditure by

	£
County Councils ...	100,000
County Borough Councils ...	53,900,000
Town Councils (other than County Borough Councils)...	7,400,000
Urban District Councils ...	6,300,000
Rural District Councils ...	600,000
Other Authorities ...	9,000,000
	<hr/> £77,300,000

358. The proportion of the total expenditure of the Authorities named below which was incurred on the principal services administered by them was as follows :

<i>Local Authorities.</i>	<i>Total Expenditure.</i>	<i>Proportion per Cent. of Total Expenditure Incurred on</i>
* COUNTY COUNCILS.	£	
Services other than Trading Services	49,500,000	Education ... 41·0 Roads and Bridges ... 15·5 Police ... 15·0 Agriculture ... 10·5 Mental Hospitals ... 10·0 Other Public Health Services ... 3·0 <hr/> 95·0
Trading Services ...	100,000	Light Railways ... 100·0

\* Ministry of Health (Gibbon), M. 76-80 (I, 37), Appendix XV, Table A (I, 163).

† Expenditure of the Metropolitan Water Board and Port of London Authority, and on the Metropolitan Police in the County of London, is also excluded.

<i>Local Authorities.</i>	<i>Total Ex- penditure.</i>	<i>Proportion per Cent. of Total Expenditure Incurred on</i>
COUNTY BOROUGH COUNCILS.		
Services other than Trading Services	62,900,000	Education ... .. 32·5 Public Health (including Mental Hospitals, 4·5, and Housing, 4·5) ... 28·5 Roads, etc. ... .. 12·0 Police ... .. 8·5 <hr/> 81·5
Trading Services ... ..	53,900,000	Trams, etc. ... .. 29·0 Gas ... .. 25·5 Electricity ... .. 25·0 Water ... .. 13·0 <hr/> 92·5
TOWN COUNCILS (OTHER THAN COUNTY BOROUGH COUNCILS).		
Services other than Trading Services	13,400,000	Education ... .. 30·5 Public Health (including Housing, 5·0) ... 28·0 Roads, etc. ... .. 16·0 Police ... .. 6·0 Public Lighting... .. 2·5 <hr/> 83·0
Trading Services ... ..	7,400,000	Gas ... .. 35·0 Electricity ... .. 27·5 Water ... .. 19·5 Trams, etc. ... .. 9·0 <hr/> 91·0
URBAN DISTRICT COUNCILS.		
Services other than Trading Services	16,600,000	Public Health (including Housing, 7·5)... .. 35·5 Education ... .. 22·0 Roads ... .. 20·5 Public Lighting... .. 3·0 <hr/> 81·0
Trading Services ... ..	6,300,000	Gas ... .. 34·0 Electricity ... .. 26·5 Water ... .. 22·0 Trams, etc. ... .. 11·0 <hr/> 93·5
RURAL DISTRICT COUNCILS.		
Services other than Trading Services	7,500,000	Roads ... .. 58·5 Public Health (including Housing, 7·0)... .. 28·5 <hr/> 87·0
Trading Services ... ..	600,000	Water ... .. 94·0 Electricity ... .. 3·0 Gas ... .. 1·0 <hr/> 98·0

## SECTION 6.—AUDIT OF ACCOUNTS OF LOCAL AUTHORITIES.

359. The accounts of all County Councils and their Committees, of Councils of Urban Districts, Rural Districts, and Parishes, of Overseers, and of numerous Authorities constituted for special purposes, are audited by District Auditors appointed by the Minister of Health.

The District Auditors also audit the education accounts and the accounts of assisted housing schemes in Boroughs; but (subject to the exceptions mentioned below) do not audit the general accounts of Councils of Boroughs or County Boroughs.\*

360. The general accounts of Councils of Boroughs and County Boroughs are audited, in accordance with section 25 of the Municipal Corporations Act, 1882, by three Borough auditors, two elected by the burgesses, called elective auditors, and one appointed by the Mayor, called Mayor's auditor.

An elective auditor must be qualified to be a councillor, but may not be a member of the Council or the Town Clerk or the Treasurer. The Mayor's auditor must be a member of the Council.

The term of office of Borough auditors is one year, but they are eligible to hold office for a further term.

361. We were informed that the general accounts of the Councils of 25 out of the 247 Boroughs, and 9 out of the 82 County Boroughs, had been made subject to audit by District Auditors under special provisions.†

## CHAPTER VI.—GROWTH AND DISTRIBUTION OF POPULATION, ETC., IN ENGLAND AND WALES BETWEEN 1889 and 1921.

### Growth of the Population of England and Wales.

362. During the period between 1889 and 1921, the population of England and Wales increased from nearly 26 millions at the Census of 1881 (the last Census taken before the passage of the Local Government Act, 1888) to 29 millions in 1891, about 32½ millions in 1901, 36 millions in 1911, and nearly 38 millions in 1921.

The percentage rate at which the population increased during each Census period over the population enumerated at the preceding Census was, in 1881, 14.36, in 1891, 11.65, in 1901, 12.17, in 1911, 10.89, and in 1921, 4.93.‡

\* Second Annual Report of the Ministry of Health, 1920-21 [Cmd. 1446], page 118-19.

† Ministry of Health (Gibbon), Q. 1499-500, and footnote (I, 62).

‡ The figures in this paragraph include the population of London.

### **Distribution of Population between Urban and Rural Areas, 1889-1921.**

363. The increase of the population as a whole has not been uniform throughout local government areas of all types.

For the purpose of the Census Returns a distinction is drawn between urban population and rural population based on the distinction between Urban Sanitary Districts, that is, the areas under the jurisdiction of County Borough Councils, other Town Councils, and Urban District Councils, and Rural Sanitary Districts, that is, areas under the jurisdiction of Rural District Councils.

The Census Returns prepared on this basis show that, out of each 100 inhabitants of the country, the numbers who formed part of the urban population, outside London, and of the rural population respectively were, in 1881, 53 and 32; in 1891, 57 and 28; in 1901, 63 and 23; in 1911, 66 and 22; and in 1921, 67 and 21.†

364. This redistribution of the population has been brought about, first, by the natural increase of population within the existing boundaries of local government areas which have remained either urban or rural in character as these terms are interpreted for Census purposes; secondly, by the alteration of the status of local government areas from that of rural areas to that of urban areas as defined for Census purposes; and, thirdly, by the inclusion of areas or parts of areas which were previously rural under the Census classification in areas which are urban under that classification. The percentage increase of the urban population (including that of London) between 1911 and 1921 was 6·6, and of this increase 5·2 was due to the increase of population within Urban Districts as now constituted.‡

### **Distribution of Population, etc., between Local Government Areas of the same Types, 1921.**

365. At the Census of 1921, England and Wales (outside London) was divided into 1,117 urban areas as above defined, of which 82 were County Boroughs, 253 other Boroughs, and 782 other Urban Districts; and 663 rural areas.§

The population of the urban areas was about 25½ millions, and of the rural areas about 7,850,000.

The area of the urban areas was about 4 million acres, and of the rural areas about 33,175,000 acres.

The density of the population per acre was in the urban areas 6·2 persons per acre, and in the rural areas 0·2 persons per acre.

366. The assessable value on the 1st April, 1921, of the areas within the Administrative Counties (that is, Urban Districts other than County Boroughs, and Rural Districts) was about

† These figures are given to the nearest round number.

‡ Census of England and Wales, 1921, Preliminary Report [Cmd. 1485] pages xii and xiii.

§ Ministry of Health (Gibbon), M. 50 (I, 27).



£114 millions, or £5·48 per head, and the assessable value of the County Boroughs was about £70,886,000, or £5·63 per head.†

There were wide variations in the distribution of population and resources available for purposes of local taxation between the various local government areas of the same types.

#### COUNTY BOROUGHES.

367 Of the populations of the 82 County Boroughs, 4 were under 50,000, 38 between 50,000 and 100,000, 28 between 100,000 and 250,000, 8 between 250,000 and 500,000, and 4 over 500,000.

The rateable value of 2 County Boroughs was between £100,000 and £200,000, of 34 between £200,000 and £500,000, of 29 between £500,000 and £1,000,000, of 9 between £1,000,000 and £1,500,000, of 2 between £1,900,000 and £2,000,000, of 2 between £2,200,000 and £2,400,000, and of 4 over £2,500,000.‡

#### OTHER BOROUGHES AND URBAN DISTRICTS.

368. Of the 253 other Boroughs and the 782 Urban Districts, 66 Boroughs and 302 Urban Districts had populations of 5,000 or less; 41 Boroughs and 218 Urban Districts had populations between 5,000 and 10,000; 53 Boroughs and 177 Urban Districts had populations between 10,000 and 20,000; 82 Boroughs and 74 Urban Districts had populations between 20,000 and 50,000; 11 Boroughs and 6 Urban Districts had populations between 50,000 and 100,000; and 5 Urban Districts (but no Boroughs) had populations over 100,000 but less than 200,000.§

369. The rateable value was under £10,000 in 19 Boroughs and 83 Urban Districts; between £10,000 and £20,000 in 34 Boroughs and 150 Urban Districts; between £20,000 and £30,000 in 26 Boroughs and 125 Urban Districts; between £30,000 and £40,000 in 16 Boroughs and 91 Urban Districts; and between £40,000 and £50,000 in 13 Boroughs and 70 Urban Districts.

108 Boroughs and 519 Urban Districts accordingly had a rateable value of less than £50,000.

The rateable value in 55 Boroughs and 163 Urban Districts was between £50,000 and £100,000; in 71 Boroughs and 84 Urban Districts it was between £100,000 and £250,000; and in 19 Boroughs and 16 Urban Districts it was over £250,000, the maximum in a Borough being about £700,000 and in an Urban District about £970,000.\*

#### RURAL DISTRICTS.

370. Of the 663 Rural Districts, 11 had populations of less than 1,000 (5 having not over 500); 117 had populations between

† County Councils Association (Keen), Appendix LXXI (IV, 730).

‡ Ministry of Health (Gibbon), Appendix III (I, 137).

§ Ministry of Health (Gibbon), M. 50 (I, 27), Appendix IV, Table A (I, 138).

\* Ministry of Health (Gibbon), Appendix IV, Table B (I, 138).

1,000 and 5,000; 209 had populations between 5,000 and 10,000; 233 had populations between 10,000 and 20,000; 88 had populations between 20,000 and 50,000; and 5 had populations over 50,000, the largest of these populations being about 76,000.

371. The rateable value was under £10,000 in 9 Rural Districts; between £10,000 and £20,000 in 27; between £20,000 and £30,000 in 40; between £30,000 and £40,000 in 58; and between £40,000 and £50,000 in 47.

181 Rural Districts accordingly had a rateable value of less than £50,000.

The rateable value of 256 Rural Districts was between £50,000 and £100,000; in 211 it was between £100,000 and £250,000; and in 11 it was over £250,000, the maximum being about £384,000.†

### **Redistribution of Population, etc., Effected by the Constitution and Extension of County Boroughs, 1889-1921.**

372. For the purpose of this Report, the most important means by which redistribution of the area, population, and rateable resources under the jurisdiction of the several Local Authorities is brought about is the constitution and extension of County Boroughs.

The constitution of County Boroughs does not affect the classification of urban and rural populations for Census purposes, but it does affect the extent of the area, the numbers of people, and the amount of rateable value within the jurisdiction of County Councils.

373. Since 1889, the number of County Boroughs has been increased from 61 to 82, 23 County Boroughs having been constituted, and 2 having been merged in other County Boroughs.

The effect of these changes was to place under the jurisdiction of County Borough Councils, instead of County Councils and Councils of County Districts, areas amounting in all to about 100,000 acres; a population of about 1,300,000; and about £6½ millions of rateable value.\*

374. The number of extensions of the boundaries of County Boroughs made since 1889 is 109‡. The effect of these changes was to place under the jurisdiction of County Borough Councils, instead of County Councils and Councils of County Districts, areas amounting in all to about 250,000 acres; a population of about 1,700,000; and nearly £8 millions of rateable value.\*

375. The effect upon the jurisdiction of County Councils and County Borough Councils of the constitution and extension of

† Ministry of Health (Gibbon), Appendix V (I, 139).

\* These figures are based on the figures given in the following passages of evidence, which do not agree in detail: Ministry of Health (Gibbon), Appendix XXIII, Tables B and C (I, 182); County Councils Association (Dent), Appendix LXIII, Tables C and D (III, 484); (Keen) Appendix LXX (IV, 724).

‡ Ministry of Health (Gibbon), M. 216 (I, 94).

County Boroughs, taken together, as indicated by the figures of area, population, and rateable value as they stood at the times when the changes were made, has accordingly been to transfer from the jurisdiction of County Councils to that of County Borough Councils areas amounting in all to about 350,000 acres; a population of about 3,000,000; and about £14½ millions of rateable value.

376. The percentages of the present population and rateable value of Administrative Counties (outside London) transferred to the jurisdiction of County Borough Councils by these changes were stated in evidence to be 15.74 and 13.82 respectively.‡

If the effect were considered in relation to the Administrative Counties in which the changes had occurred, namely 27 of the 61 Administrative Counties outside London, the percentages of the present population and rateable value of these Counties transferred to the jurisdiction of County Borough Councils were stated in evidence to be 22.88 and 20.80 respectively.‡

377. We were furnished with detailed statistics of the population and rateable value in successive decades of the nine Administrative Counties (Lancashire, Yorkshire (West Riding), Staffordshire, Worcestershire, Glamorgan, Durham, Warwickshire, Hampshire, and Gloucestershire) most affected by the constitution or extension of County Boroughs, which were summarized as showing that “ while in the case of some Counties the growth of population and (still more) of rateable value have wholly or in large measure made up for the losses sustained by the changes, in other cases, the losses have been large and have resulted in lasting reductions.”§

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‡ County Councils Association (Dent), M. 23 (III, 452), Appendix LXIII, Tables C and D (III, 484).

§ Ministry of Health (Gibbon), M. 216 (iv) (I, 94), Appendix XXIII, Table E (I, 185).

## **PART II.—SUMMARY OF EVIDENCE TAKEN BEFORE THE COMMISSION ON MATTERS DEALT WITH IN THIS REPORT.**

### **ARRANGEMENT OF THIS PART OF THE REPORT.**

378. In this part of our Report we present a summary of the evidence taken before us on the matters dealt with in the first part of our inquiry, that is, the constitution and extension of County Boroughs, and their effects on the administration of other Local Authorities.

In the first place, in Chapters VII and VIII, we have summarized the evidence on the subject of the Provisional Order procedure under section 54 of the Local Government Act, 1888, for dealing with applications for the constitution or extension of County Boroughs, including (Chapter VIII) proposals and suggestions for the alteration of that procedure.

Next, in Chapters IX and X, we have summarized the evidence on questions other than the question of Provisional Order procedure which affect both the constitution and the extension of County Boroughs, including (Chapter X) the question of the financial adjustments which follow upon alterations of local government areas, with special reference to the incidence of the cost of maintenance of main roads.

Thirdly, in Chapter XI, we have summarized the evidence on questions which affect only the constitution of County Boroughs.

Lastly, in Chapter XII, we have summarized the evidence on questions which affect only the extension of County Boroughs.

## **CHAPTER VII.—ON THE EXISTING PROCEDURE UNDER SECTION 54 OF THE LOCAL GOVERNMENT ACT, 1888.**

### **SECTION 1.—SUMMARY OF HISTORICAL EVIDENCE.**

379. A Town Council may apply for an alteration of boundaries, or, if the town is a Non-County Borough, for it to be constituted into a County Borough, under either of two procedures, that is, by the promotion of a Private Bill, or by representing to the Minister of Health that it is desirable that a Provisional Order should be made for the purpose.

#### **Procedure by Private Bill.**

380. Town Councils are empowered to proceed for these as for other purposes by Private Bill under the general law of the constitution. The distinctive character of a Private Bill is described by Erskine May in the following terms :—

“ Bills for the particular interest or benefit of any person or persons, are treated, in Parliament, as Private Bills.

Whether they be for the interest of an individual, of a public company or corporation, or of a Parish, City, County, or other locality, they are equally distinguished from measures of public policy; and this distinction is marked, in the very manner of their introduction. Every Private Bill is solicited by the parties themselves who are interested in promoting it, being founded upon a petition which must be duly deposited in accordance with Standing Order."

### **Procedure by Representation to the Minister of Health.**

381. This procedure is governed by section 54 of the Local Government Act, 1888, which, read with the Ministry of Health Act, 1919, provides (sub-section (1), paragraphs (a) and (d)) that whenever it is represented by the Council of any County or Borough to the Minister of Health that the alteration of the boundary of any County or Borough is desirable, or that it is desirable to constitute any Borough having a population of not less than 50,000 into a County Borough, the Minister shall, unless for special reasons he thinks that the representation ought not to be entertained, cause to be made a Local Inquiry, and may make an Order for the proposal contained in such representation, or for such other proposal as he may deem expedient, or may refuse such Order.

Sub-section (3) of section 54 provides that if the Order alters the boundary of a County or Borough, or provides for the union of a County Borough with a County, or for the union of any Counties or Boroughs, or for constituting a Borough into a County Borough, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

### **Provisional Order Instructions Issued by the Minister.**

382. Instructions as to representations by Town Councils for Provisional Orders to be made under section 54 of the Act of 1888 with respect to the alteration of the boundaries of Boroughs have been regularly issued in each Session of Parliament by the Minister to Town Councils. The Instructions issued in the Session of 1922 are reprinted in the Minutes of Evidence taken before us and published.\*

The Instructions have been issued to Town Councils but not to other Local Authorities. We were informed that the reason for issuing them to all Town Councils, whether or not it were known that a Council proposed to make a representation, was that if the Councils were not instructed in advance they did not take proper steps to prepare any representation which they might desire to make†; and that the reason why the Instructions were sent to Town Councils but not to other Local Authorities was

\* Gibbon, Appendix XXII (I, 178).

† Gibbon, Q. 2092 (I, 87), Q. 2096 (I, 87), Q. 2112-3 (I, 87).

that it rested with Town Councils to take the initiative in making a representation for the purpose of altering Borough boundaries<sup>‡</sup>; and that Instructions as to Provisional Order procedure for this and other purposes were invariably sent to the Local Authorities of the type or types with which it rested to take the first step.<sup>+</sup>

PARTICULARS TO BE FURNISHED TO THE MINISTER.

383 Town Councils are directed by the Instructions to embody their representation in a memorial of the Town Council under their corporate seal.

The Instructions require that the memorial should specify with reference to a map the particular alterations desired, and should state in detail the reasons upon which the Town Council rely in support of their representation.

Town Councils are also required to include in the memorial a large number of statements of fact and explanations of the effect of the representation upon the constitution, areas, and functions of other Local Authorities concerned. For example, the memorial must embody definite proposals as to the mode in which the proposed added areas and the parts of any parishes which will remain outside should be dealt with for parochial purposes; the effect of the proposals on Parish Councils in any rural areas affected which will remain outside the Borough; and the effect on the numbers of members of Local Authorities in the areas affected

384. Particulars must also be given, not only with respect to the Borough but also with respect to the proposed added areas, of the size and population of all districts concerned, of their financial position, of any existing provisions for the joint administration of local government services, of any alterations proposed to be made in Local Acts, and of any Adoptive Acts put into force as a whole or in part.

The memorial must further include detailed statements in relation to certain local government services, namely, education and burial matters, and information as to any previous proposals for the extension of the Borough, whether made by Private Bill or by application for Provisional Order, which have affected any of the proposed added areas and have not been successful.

385 Further, the memorial must be accompanied by at least one, and usually by two, large-scale maps.

The first map is required to show the existing boundary of the Borough, the alteration of boundary proposed by the memorial, and the entire boundaries of any Urban Districts and of any contributory places in Rural Districts which will be affected by the proposal. The map must also indicate by distinctive colours the equipment of the Borough, and of other areas affected, for

<sup>‡</sup> Gibbon, Q. 2125 (I, 88), Q. 2127 (I, 88).

<sup>+</sup> Gibbon, Q. 2116-22 (I, 88).

the performance of local government services, e.g., it must show housing sites, the position of sewage disposal works, refuse destructors or tips, water works, tramways and police stations.

If the Borough is divided into wards, the number or boundaries of which are to be changed under the proposal, or if it is proposed to divide it into wards if the boundary is altered, a second map must indicate the present boundaries of any wards within the Borough and the apportionment of councillors among them, and must show the effect of the proposals as regards the boundaries and representation of wards both within the Borough and in the proposed added areas.

#### COMMUNICATION OF THE MEMORIAL TO LOCAL AUTHORITIES AND OTHERS AFFECTED.

386. The Instructions require the Town Council to send copies of the memorial to the several Local Authorities having jurisdiction within the areas affected by the proposal, including the County Council, and also to forward copies to the Minister of Agriculture and Fisheries. The copies sent to the County Council and the Minister of Agriculture and Fisheries must be accompanied by a copy of the first map referred to above; and both this and the other map must be deposited in the Town Clerk's Office simultaneously with the transmission of the memorial to the Minister, and must be open to inspection without payment at all reasonable hours by any Local Authority or person affected by the proposal. Notice of the deposit of these maps in the Town Hall must be given to each Local Authority interested, and must be promptly advertised in a local newspaper for two successive weeks.

The Standing Orders of Parliament require that copies of both the maps mentioned above should be deposited in the Private Bill Office of the House of Commons and in the Office of the Clerk of the Parliaments in the House of Lords.

The Town Clerk is required to furnish the Minister with a statutory declaration that these requirements have been carried out.

#### COMMUNICATION OF OBJECTIONS TO THE REPRESENTATION BY LOCAL AUTHORITIES AFFECTED TO THE MINISTER AND TO THE TOWN COUNCIL.

387. The Instructions require the Town Clerk, in forwarding copies of the memorial, to inform the Local Authorities that a full statement of any objections to the proposal which the Local Authorities may wish to raise should be sent to the Minister of Health within six weeks; and also to inform the Local Authorities that a copy of any statement of objections should simultaneously be furnished to the Town Council by whom the representation has been made.

The Town Clerk is required to include in his statutory declaration a statement that he has complied with this part of the Instructions.

### **Procedure of the Minister on Receipt of the Representation.**

#### **INITIAL EXAMINATION OF THE REPRESENTATION.**

388. When the memorial is received in the Department it is examined to see that the Instructions have been complied with, particularly those requiring the notification of all the Local Authorities who are affected, and that all the necessary maps and documents have been forwarded.

#### **REFUSAL TO ENTERTAIN THE REPRESENTATION AS THE RESULT OF INITIAL EXAMINATION.**

389. At this stage the Minister must decide, under sub-section (1) of section 54 of the Act of 1888, whether for special reasons he thinks that the representation ought not to be entertained. In some cases he has decided that such special reasons exist without any form of investigation of the proposal in the locality.\* In other cases it has been the practice of the Minister not to take this decision without directing a preliminary visit to the locality by one of the Engineering Inspectors of the Department. This course has been taken in cases in which it appeared to be doubtful whether the Minister would be justified in putting the parties to the expense entailed by a Local Inquiry. That is to say, the Minister on considering the memorial has been doubtful at first sight whether the Town Council had any case which could be substantiated at such an Inquiry.

390. We were told by Lieut.-Colonel Norton, now Deputy Chief Engineering Inspector of the Ministry of Health, who held a large number of statutory Local Inquiries under section 54 between 1903 and 1915, that he had been instructed on five occasions to pay preliminary visits of this character to the areas affected†. In four of these cases, the Town Councils responsible for the representation being those of Burslem (1903), Hanley (1903), Crewe (1905), and West Hartlepool (1909), the Minister decided after the visit had been paid that there were special reasons for which the representation ought not to be entertained; and accordingly no Local Inquiry was held. In the fifth case, in which the Town Council responsible for the representation was that of Reading (1908), a Local Inquiry was subsequently held, a Provisional Order was made by the Minister, and Parliament confirmed the Order without alteration.

\* Gibbon, M. 210 (I, 85); Norton, Q. 4882-3 (II, 322).

† Norton, M. 3 (II, 311), Q. 4874 (II, 322), Appendix LIV, Table II (II, 327).



PRELIMINARY VISIT AND INVESTIGATION IN THE LOCALITY  
BY AN ENGINEERING INSPECTOR (DURING 1921.)

391. Between 1889 and 1921, it was the practice of the Department, unless the Minister refused to entertain the representation, either without any form of investigation in the locality or as a result of an informal visit to the locality by an Engineering Inspector, to advise the Minister at this stage to cause a Local Inquiry to be made into the proposal.

392. In 1921, a modification was introduced into the procedure, which was described to us in the following terms†:—

“Where the application is opposed, the practice now is, first, to have a Departmental conference for a preliminary examination of the proposals. Afterwards, an Inspector would be directed to make a preliminary visit and investigation.

“The object of this preliminary visit is (1) to ascertain whether any part of the proposal should be rejected at the outset even before the Inquiry is held (this would be done only if the case for it were quite clear); (2) to obtain whatever measure of agreement is possible; and (3) to endeavour to secure such arrangements as will limit expenses, especially those incurred for counsel and expert witnesses.”

393. So far as the process described as a Departmental conference is concerned, we were informed that the conference consisted of a meeting of officers of the Department whose business it was to consider the proposal, and that no person other than officers of the Department attended such conferences.\*

We heard evidence in detail in regard to the preliminary visit and investigation which we were told that an Inspector would be directed to make subsequent to the Departmental conference.†

This visit and investigation differed from the statutory Local Inquiry under section 54 of the Act of 1888 in the following respects:—

(a) It was not required to be held by the terms of section 54,‡

(b) It was not held in public,§ and

(c) It was not necessarily attended by representatives of all the parties concerned.||

394. It was emphasized in the evidence that only a short experience of this procedure was available, since it was first employed in 1921 and was suspended when, in the course of 1922, Your Majesty's Government announced that, in view of their decision to recommend our appointment, the Minister would not entertain contentious applications for the extension of any Boroughs or the constitution of County Boroughs.

¶ Gibbon, M. 211 (I, 85).

\* Gibbon, Q. 2135-9 (I, 89).

† Gibbon, Q. 2140-1 (I, 89), Q. 2143-5 (I, 89), Q. 2173-4 (I, 90), Q. 2188-90 (I, 90), Q. 2209 (I, 91).

‡ Gibbon, Q. 2164 (I, 89).

§ Gibbon, Q. 2164-5 (I, 89).

|| Gibbon, Q. 2150-2 (I, 89), Q. 2175-87 (I, 90), Q. 2191 (I, 90), Q. 2200-1 (I, 91), Q. 2227-9 (I, 92).

In order that we might have an opportunity of considering in detail the nature and the results of the procedure so far as experience was available, we asked to be allowed to examine those Engineering Inspectors who had themselves made preliminary visits and investigations of this character during 1921. Three Inspectors attended before us to give this evidence; and the particulars of the several cases with which they were concerned are set out in the following paragraphs.

*The Case of West Bromwich and other Authorities.*

395 In this case applications for alterations of boundaries were made in 1921 by the Birmingham City Council and the Town Councils of West Bromwich, Walsall, Smethwick, and Sutton Coldfield.

The areas affected lie close together, and the proposals overlapped. Three Urban Districts affected were seeking Charters of incorporation as Boroughs.

The Inspector concerned with the case was Mr. Hetherington. He told us\* that the Department took the view that it was very inadvisable, having regard to the position of the national finances in 1921, that a long and expensive statutory Local Inquiry should be held into the proposals, and that he was sent down on a preliminary visit and investigation to endeavour to secure one thing, and, as he understood it, one thing only, namely, the postponement of the proposals. With this object in view he made an inspection of the areas affected as far as it was necessary to enable him to understand the proposals. He then asked representatives of each of the Authorities by whom proposals had been made to meet him in conference, and after conferring with him they agreed to withdraw the whole of the applications. It was clear to his mind that, having regard to the object of his visit, there was no need for him to confer with representatives of the opponents of the proposals, since it rested with the Authorities by whom the proposals were made to decide whether or not to withdraw them.

*The Guildford Case.*

396. In this case the Town Council proposed in 1921 to add to the Borough an area of which a considerable part was rural in character.

The Inspector concerned with the case was Mr. Cross. He told us† that as the result of a Departmental conference on the proposal he was instructed to visit the locality and to ascertain what the position was, both as regards the Town Council and the other Local Authorities immediately concerned with the proposal. In the locality he saw the Town Clerk and the Clerk of the Rural District Council affected by the proposal, but there was no public

\* Hetherington, Q. 5701, f. (II, 367).

† Cross, Q. 5628, f. (II, 365).

meeting, and the County Council were not consulted at this stage. The object of Mr. Cross's visit, as he understood it, was to ascertain whether the proposal of the Town Council was a reasonable one, to see what the position of the other Local Authorities was in relation to the proposal, and to find out whether any agreement could be reached between them. He thought that his visit saved a good deal of expense, because subsequent to it the Rural District Council withdrew their opposition, and the County Council came to the Local Inquiry in support of the application.

*The Wolverhampton Case.*

397. In this case the Town Council applied in 1921 for an extension of the Borough boundaries.

The Inspector concerned with the case was Mr. Hooper. He told us\* that the purpose of the visit which he was instructed to make to the locality was, as he understood it, as follows :—

“The first point was to ascertain what the feeling of the Local Authorities was in the matter, whether there were any matters of agreement or matters of disagreement; then to look into the application and to see whether there were any areas which were so patently outside what one may term the reasonableness of the promotion as to exclude them altogether before the Inquiry took place. The third idea in my mind was to see whether, by any effort of mine, I could reduce the expenditure which is incurred at these Inquiries by the Local Authorities. Those were the three points which I had in my mind.”

398 He was given no direct instructions by the Department, but was left to secure the objects in view as best he could. On arriving in the locality he did not hold a general conference, but called upon the Clerk and the Chairman of the Local Authorities concerned, with the exception of the County Council. He explained to us that he did not communicate with the County Council, and was not aware whether they knew of his visit. He understood that an interview between the Clerk of the County Council and an officer of the Department in London was to take the place of direct communication on the spot between the County Council and himself, but the result of the interview was not communicated to him.

He further explained that although part of his duty was to find out whether there was any possibility of agreement between any of the Local Authorities concerned, he found them in such a frame of mind that he did not think that any useful purpose would be served by asking them to meet each other, and decided to leave them to state their respective views at the statutory Local Inquiry which he subsequently held.

*Results of Preliminary Visits and Investigations during 1921.*

399. We were informed that in the light of the three cases in which the system of preliminary visit and investigation had been

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\* Hooper, Q. 5779, f. (II, 371).

put into operation, the Department were of opinion that, although there had not been sufficient experience to come to a definite conclusion as to the practice, or to effect the improvements in procedure which would no doubt follow from experience, the results up to the present had been decidedly promising. We were also told that one of the principal objects of the preliminary investigation was to reduce the expenses involved in applications for extensions, and that on the whole the general result had been remarkably successful in the few cases which had occurred.\*

### **Procedure of the Minister as to Representations into which a Local Inquiry is Held.**

#### **INSTRUCTIONS TO AN ENGINEERING INSPECTOR TO HOLD THE LOCAL INQUIRY.**

400. Unless, as a result of such preliminary scrutiny of a proposal as he may think fit to order, the Minister comes to the conclusion that there are special reasons for which he thinks that the representation ought not to be entertained, he is bound by section 54 of the Act of 1888 to cause a Local Inquiry to be made into the proposal contained in the representation. These Inquiries are held in public by Engineering Inspectors of the Department, and the procedure before, during, and after them was described to us in detail by Lieut.-Colonel Norton†, whose personal experience covered the period from 1903 to 1915, and by Mr. Hetherington‡, who had held a number of Inquiries after 1915 until 1921

#### **PREPARATION OF MEMORANDUM OF FACTS FOR THE USE OF THE INSPECTOR.**

401. As soon as the Minister reaches his decision to cause a Local Inquiry to be made, a memorandum is prepared in the Department for the Inspector's use, which sets out in convenient form the main facts as to the local government history of the whole area affected by the representation, the precise position as regards all public services in the area, and the record as administrators of the Local Authorities concerned so far as it is known to the Department. The facts set out in this memorandum are derived from official documents, but the memorandum contains no statement of opinion. It draws attention to defects in sanitary administration in the areas concerned, and is prepared in accordance with a settled plan. We have had an opportunity of examining specimens of these memoranda, and we may mention that each of these specimens contained over 100 foolscap type-written pages, and dealt exhaustively with the sanitary and other

\* See the letter from the Department to the Commission, printed at the beginning of Mr. Cross's evidence (after Cross, Q. 5625 (II, 364)).

† Norton, Q. 4664, *f.* (II, 311).

‡ Hetherington, Q. 5694, *f.* (II, 367).

circumstances of all the areas concerned under such headings as are set out in the footnote below.\*

402. In addition to this memorandum, the Inspector is provided with all the important documents in the Department which relate to the administration of the several areas affected by the application.

#### PUBLIC NOTICES OF THE LOCAL INQUIRY

403. As soon as the Inspector is informed that a Local Inquiry is to be held into a proposal, he fixes a date for the Inquiry, and public notice of that date is given by the Department in all the localities concerned. About three weeks usually intervene between the issue of the notice and the holding of the Inquiry.

#### The Inspector's Action before Arrival in the Locality.

##### STUDY OF WRITTEN INFORMATION.

404. The memorandum of facts above described, and the other relevant documents, are placed at the Inspector's disposal before he goes to the locality. They are used by him as showing what information is available in the Department and what further information will be required by him for the purposes of the Local Inquiry

#### REQUESTS FOR STATISTICAL INFORMATION SENT TO LOCAL AUTHORITIES.

405. Colonel Norton told us that it was his practice, immediately after giving notice of the date of an Inquiry, to send out a list of questions to the Clerks of all the Local Authorities affected by the proposal, with the exception of Boards of Guardians†. These questions related to sanitary and financial statistics, and were, in the main, questions properly addressed to the Sanitary Authorities. Certain questions were also sent to the County Council as to rates and rateable values for the County as a whole and for areas within the County. Colonel Norton told us that he had found it necessary to take steps himself to secure this information, because Local Authorities were reluctant to supply it to the Town Council by whom the proposal was being

\* Main Proposal; Principal Consequential Proposals:--(a) Parochial, (b) Union and Guardians, (c) Rural District Council, (d) Municipal Wards, Town Council and Urban District Councils, (e) County Electoral Divisions, (f) Justice, Coroner and Police; History and Industries; Attitude of Local Authorities concerned; Debt; Accounts; Rates; Local Acts; Adoptive Acts; Public Health Acts Amendment Act, 1907; Byelaws and Regulations; Parish Council Powers; Urban Powers; Sewerage and Sewage Disposal; Water Supply; Refuse Disposal; Sanitary Conveniences; Hospitals; Electricity and Gas; Highways; Housing; Education; Burial Arrangements; Provision for Lunatics; Combinations and Agreements; Tramways and Motor Omnibuses; Markets; Joint Boards; Medical Officers of Health and Sanitary Inspectors.

† Norton, M. 6 (II, 311).

made, on the ground that their case might thereby be prejudiced.†

The statistics, so far as they were completed, were handed to the Inspector on his arrival in the locality, and if properly prepared showed him at a glance the existing sanitary conditions in each area.

When war broke out, Colonel Norton was engaged in simplifying the list of questions previously sent to Sanitary Authorities; and between 1915 and 1921 less complete figures were accepted at this stage.

### The Inspector's Action on Arrival in the Locality.

#### SETTLEMENT OF PROGRAMME OF INSPECTION.

406 Colonel Norton told us that it was his practice to go down to the locality a week or ten days before the date fixed for the Local Inquiry‡. Public notice was not given of the date on which the Inspector would arrive in the locality, but as soon as he received directions to hold the Inquiry he wrote to the Local Authorities affected announcing the date on which he would arrive. He could not say definitely that among these Authorities he had in every case included the County Council§; the reason for this uncertainty was explained later, in his description of the kind of information which he gathered locally before the date of the Inquiry (*see* paragraph 411 below).

407 His first formal business on arrival was to view the areas affected. The nature of his inspection is best explained in his own words, which we quote from his memorandum of evidence\* :—

“ I generally allowed myself ample time before the Inquiry opened for a thorough inspection of the Borough and proposed added areas; in exceptional cases my inspection took a week or more, but it was time very usefully spent; I was usually accompanied by the senior officials and perhaps one or two members of each Local Authority. If I was informed that an attack was to be made at the Inquiry by one Authority on the sanitary administration of any other, I made a point of viewing specially the *locus in quo* to acquaint myself with its condition. An Inspector's knowledge of the facts often saves many hours at the Inquiry.

“ These attacks were generally made in respect of slum areas, back-to-back houses, defective sewage disposal works, pollution of streams by untreated sewage, insanitary methods of refuse disposal, insufficient water supply, and badly-maintained district roads.

“ In viewing the various districts I always paid particular attention to the physical features, rivers, streams and canals, and especially to drainage areas, ascertaining generally how such areas, if already built on, had been sewered. I noted in the Borough what vacant lands were available for building, also the areas in process of development and the directions in which the town was developing, the extent to which the populated districts in the added areas immediately adjoining the Borough appeared

† Norton, Q. 4689-92 (II, 315).

‡ Norton, Q. 4703 (II, 315).

§ Norton, Q. 4800 (II, 319).

\* Norton, M. 6-7 (II, 311).

to be obvious outgrowths of the town, *e.g.*, continuous rows of houses, shops, etc. I also ascertained how such areas had been or could be sewered. I inspected any 'insanitary areas' in the various districts, including back-to-back houses and defective yard areas. I ascertained whether the trading and industrial concerns in the Borough and added areas were similar, and to what extent housing accommodation for the workmen had been provided locally.

"I saw in each area what public offices, buildings, schools, libraries, etc., had been erected, what parks and recreation grounds existed, whether the fire protection arrangements were adequate, and whether the roads were well maintained, lit and scavenged. If necessary, and any point were likely to arise on it, I inspected both the existing and proposed boundaries."

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"I always carefully inspected the sewage disposal works in each area with a view to ascertaining whether they were working satisfactorily, and whether they were of sufficient capacity to treat any additional sewage if the necessity arose: if time allowed, and I considered it of any importance. I visited the various waterworks, provided the undertakings were owned by the Local Authority.

"In addition, I generally inspected the offices of each Local Authority, and when the proposal involved an alteration in Union boundaries I visited the Guardians' institutions."

408. The precise programme to be covered by the inspection was settled beforehand in conference with representatives of Local Authorities concerned\*. This conference was sometimes attended by representatives of the County Council. The Inspector invited the several representatives to give him a scheme which would enable him to inspect their areas as rapidly and effectively as possible, and he used to ask them whether there was to be any attack on the administration of any area, and if so, what it was. He would then make a note of the points of attack, and would be particularly careful to inform himself by personal view before the Inquiry of the conditions as they appeared to him. He not only invited, but pressed, representatives of opponents of the proposal to accompany him as well as representatives of the Town Council, who would be with him throughout: and no representative of opponents was excluded from accompanying the Inspector to any area if he desired to be present.

409. Mr. Hetherington told us that in general he adopted the same procedure†, but it appeared that he had put rather more pressure on the County Council to be represented during his inspection.

#### EXECUTION OF PROGRAMME OF INSPECTION.

410. The character of the investigation made by the Inspector is sufficiently indicated in the extract from Colonel Norton's memorandum of evidence given above. He described the inspection as the most important part of the whole of the procedure of Local Inquiry, because the Inspector went round and saw for

\* Norton, Q. 4783-4 (II, 318), Q. 4788-91 (II, 318).

† Hetherington, Q. 5728 (II, 368).

himself to what extent the statements contained in the documents furnished to him were true or not\*. In his experience every Local Authority concerned sent their Clerk, their Surveyor, and their Medical Officer of Health, if they had one, to accompany the Inspector, and the whole of the area affected by the proposal was traversed by the Inspector in the company of representatives both of the Town Council and of opponents of the proposal in their respective districts.†

411. On the question of the participation of the County Council in these proceedings, Colonel Norton said that while representatives of the County Council were not excluded, they did not as a rule accompany him. The reason, in his view, was that the Sanitary Authority for each part of the Administrative County affected by the proposal, and not the County Council, were primarily responsible for the administration of the services with which the Inspector was particularly concerned.‡

There was, however, this exception to the general practice, that if it was alleged that there were insanitary areas in any district, and it was found that the County Council had intervened with a view to securing better administration in these areas, the Inspector invited the County Medical Officer of Health to go over these areas with him, and found that he nearly always came, and that his attendance was very useful.§

It rested with the Inspector to invite or not to invite the County Medical Officer of Health to accompany him; and Colonel Norton had not found it necessary in any case to inspect a mental hospital, a secondary school, or any main roads, for the administration of which the County Council were primarily responsible. He agreed that at this stage of the proceedings the responsibilities of the County Council in regard to these services did not loom large in his mind.||

412. Mr. Hetherington, as has already been stated, made it his practice to do his best to induce the County Council to be represented during his inspection; and he told us that they nearly always sent a representative.¶

#### SUPPLEMENTATION OF STATEMENTS OF FACT AND OF STATISTICS.

413. Colonel Norton told us that, in addition to his inspection of the areas affected, he was occupied in the evenings before the Inquiry in interviewing officers of Local Authorities concerned, with a view to completing or collating the replies to the questions on statistical matters which he had circulated to them, and to obtaining other information on questions of fact relating to the

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\* Norton, Q. 4754 (II, 317).

† Norton, Q. 4755 (II, 317), Q. 4778-81 (II, 318).

‡ Norton, Q. 4756-62 (II, 317).

§ Norton, Q. 4763-4 (II, 317).

|| Norton, Q. 4765-9 (II, 317), Q. 4772-5 (II, 317).

¶ Hetherington, Q. 5728 (II, 368).



sanitary administration of the various areast. This business was transacted at the place in the town at which the Inspector was staying, and it was not his practice to see representatives of the County Council, because, as he said, "there were no sanitary statistics that I wanted from the County Council"<sup>†</sup>. He explained that his object in collecting this information before opening the Local Inquiry was to save time, since if he already had the information he was able to curtail the evidence given before him at the Local Inquiry.<sup>§</sup>

The information which he acquired in this way, and any corrections of statements previously made available, were invariably conveyed by him to all the parties at the Inquiry. The practice in cases affecting a number of interests was to have the returns of sanitary statistics typed as soon as possible, and to hand round copies so that all parties might know not only their own case, but also that of their opponents, so far as the facts alone were in question.||

414. Mr. Hetherington told us that, possibly owing to the influence of the foregoing procedure on Local Authorities, he found by the time he came to conduct Local Inquiries that it was unnecessary to confer with representatives of the Authorities in order to get complete statistics and statements of fact¶. He had also found it unnecessary to distribute copies to the various Authorities concerned, but he had made known to all parties the questions which had been circulated to the Authorities, and had informed them that anybody who wished was at liberty to see the answers.\*

### **The Inspector's Action at the Local Inquiry.**

415. Local Inquiries are held either in the offices of a Local Authority or in some other building which affords the necessary accommodation for all persons who wish or are required to attend. The normal hours of sitting are from ten to five o'clock on each day, including Saturdays, if the Inquiry is not finished before a Saturday, with an hour's adjournment in the middle of the day.

It is usual for the various parties to be represented by counsel, and each Local Authority often engage a number of expert witnesses on questions of engineering, finance, public health, and general administration.

416. The order of the proceedings was described to us by Colonel Norton in the following terms†† :—

"The Inquiry is opened by counsel on behalf of the promoters, who in an address of some length refers to the history of the Borough up to date,

† Norton, M. 8 (II, 312).

‡ Norton, Q. 4702-8 (II, 315), Q. 4716-20 (II, 315), Q. 5968-75 (II, 379).

§ Norton, Q. 4722 (II, 316).

¶ Norton, Q. 4723-6 (II, 316), Q. 5975-6 (II, 379).

¶ Hetherington, Q. 5731-2 (II, 369).

\* Hetherington, Q. 5742-3 (II, 369).

†† Norton, M. 10 (II, 312).

its Charters, previous extensions (by Provisional Order or Local Act). He emphasizes the main points in favour of the application, deals briefly with the existing general, sanitary, and financial conditions of the Borough and each proposed added area, and outlines the nature of the evidence he proposes to call.

"The promoters' witnesses are then called, being cross-examined by counsel on behalf of opponents, and re-examined by the promoters' counsel.

"On the conclusion of the promoters' case the opponents follow; counsel either addresses the Inspector before or on the conclusion of his witnesses' evidence, *i.e.*, he does not make two speeches."

After the opponents have been heard, the Inspector hears representatives of railway companies, various associations, individual ratepayers, and other persons interested either in support of, or in opposition to, the proposal. On the conclusion of this evidence counsel on behalf of the Town Council is allowed to reply generally on the points raised during the Inquiry. The evidence at the Inquiry is not taken on oath.¶

417. Colonel Norton told us that he found it necessary during the progress of the Inquiry, or at any rate in its earlier stages, to continue his conferences with representatives of Local Authorities apart from the formal sittings.\* Most of this work was required in order to elucidate the financial position of the various Authorities. He did not think that he had ever found the statements of rates as given in the memorial sub-divided in the form in which he required them, and the same was true of the statements of debts.†

Again, he did not think that, with one or two exceptions, he had ever seen a memorial which set out fully what was to be done with those parts of the areas affected which the Town Council did not wish to include in the Borough.‡ Any information obtained in this way was communicated to all parties to the Inquiry in the same way as the information which the Inspector obtained by conference with representatives of Local Authorities before opening the Inquiry.§

418. The duration of the Inquiry naturally depended upon the character of the proposals and the amount of evidence called by the various parties. In important and contentious cases we were told that the Inquiry might extend over three weeks; and the Local Inquiry into the proposals of the Birmingham City Council in 1910 lasted nearly a month.||

#### REGULATION OF PROCEEDINGS AT THE LOCAL INQUIRY BY THE INSPECTOR.

##### *Withdrawal of Proposals.*

419. Colonel Norton told us that in some cases the Inspector was able to simplify and shorten the proceedings at the Local

¶ Norton, Q. 4804-10 (II, 319).

\* Norton, Q. 4735-6 (II, 316), Q. 4811 (II, 319).

† Norton, Q. 4812 (II, 319).

‡ Norton, Q. 4812 (II, 319), Q. 4838-9 (II, 320), Q. 4842-3 (II, 321).

§ Norton, Q. 4813-5 (II, 319).

|| Norton, Q. 4810 (II, 319).

Inquiry by securing the withdrawal of part of the proposal of the Town Council. It has sometimes occurred that the inspection showed to the satisfaction of the Inspector that the Town Council had little or no case for the inclusion of certain areas, and the Inspector, although he had no express authority to do so, was able by means of an informal conference with representatives of the Town Council and their advisers to secure that these areas should be withdrawn from the proposal as soon as the Inquiry opened.\*

#### *Regulation of Evidence.*

420. In addition, Colonel Norton told us that the intimate knowledge which the Inspector acquired of the issues in dispute before opening a Local Inquiry enabled him to dispense with a certain amount of the evidence offered at the Inquiry which he considered irrelevant; and that he had himself not hesitated to exercise his power to decline to hear such evidence.†

#### RECORDS OF THE PROCEEDINGS AT THE LOCAL INQUIRY.

421. The responsibility for securing any full record of the proceedings at a Local Inquiry rests with the Local Authorities concerned. A shorthand note of the proceedings is nearly always taken. In the more important cases a print of each day's proceedings is made available on the following morning. In cases of minor importance the note is typewritten, and copies are furnished to the Inspector as soon as possible. The Inspector also takes his own notes, but it is not possible for him to record more than the principal points made in the evidence and in the speeches of counsel.‡

### **The Inspector's Action after the Local Inquiry.**

#### PREPARATION OF REPORT.

422. At the conclusion of the proceedings at the Local Inquiry, the Inspector made no statement of the view which he had formed, but returned to London and proceeded to write his report. In certain cases he made a further inspection of the area affected in order to include in his report a recommendation as to the precise boundaries which should be given to the Borough if the Minister decided to make a Provisional Order for its extension. This course was only taken by the Inspector if he considered that, instead of including the whole of an area as proposed at the Inquiry, only a part of the area should be included; but it was common as a result of Inquiries affecting a large area for the Inspector to decide in his own mind that some rectification of the proposed boundaries was desirable.§

\* Norton, M. 8 (II, 312), Q. 4677 (II, 314), Q. 5939 (II, 377).

† Norton, M. 11 (II, 313), Q. 5998-6000 (II, 380).

‡ Norton, M. 11 (II, 313), Q. 4848-53 (II, 321).

§ Norton, M. 14 (II, 313), Q. 4854-5 (II, 321).

## NATURE OF THE REPORT.

423. Reports of Inspectors upon Local Inquiries into proposals for the extension of the boundaries of Boroughs, of which we have had an opportunity of seeing specimens, are necessarily voluminous documents, covering from fifty to three hundred pages of foolscap paper either in manuscript or typewriting. It has never been the practice of the Department to provide the Inspector with any clerical assistance in the locality, and a large number of the reports have had to be written in the Inspector's own hand.\*

424. The nature of the Inspector's report is that it is in part a statement and analysis of the facts which he has ascertained from the written material furnished to the Department or by his own inspection, and from the evidence given at the Local Inquiry, and in part an expression of his opinion on the question whether an Order should be made to carry out the proposal of the Town Council, either as a whole or in part. The Inspector feels himself completely free to make such recommendation as he thinks right after hearing the whole of the evidence and exercising his own judgment on the facts; but he is, of course, to some extent guided by his knowledge of the character of the decisions of Parliament and the Minister on past proposals.†

## SUBMISSION OF THE INSPECTOR'S REPORT TO THE MINISTER.

425. Under section 54 of the Act of 1888, the responsibility for taking decisions on applications for the issue of Provisional Orders rests with the Minister and not the Inspector by whom the Local Inquiry is held.

Accordingly, in the ordinary course, the work of the Inspector in relation to a proposal is completed when his report is submitted to the Department to be laid before the Minister.‡

In certain cases, however, his assistance may be required at a later stage. If, for example, the Minister decides to make an Order which varies the recommendation of the Inspector as regards the boundary of the added area, the Inspector is instructed again to visit the locality in order to go over the boundary; or he may have to visit the area affected in order to discuss the redistribution of wards within the altered Borough, or changes in County electoral divisions.§

**Procedure of the Minister on Receipt of the Inspector's Report.**

426. The report of the Inspector, together with the notes of the evidence given at the Local Inquiry, is carefully considered

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\* Norton, M. 14 (II, 313), Q. 4853 (II, 321).

† Hetherington, Q. 5761-74 (II, 370).

‡ Norton, Q. 4855 (II, 321); Hetherington, Q. 5776 (II, 371).

§ Norton, Q. 4855-60 (II, 321); Hetherington, Q. 5776 (II, 371).

by the Minister with the advice of the appropriate officers of the Department.

While the recommendations of the Inspector are not necessarily accepted by the Minister, we were told by Colonel Norton that he thought that his recommendation had been accepted in nine cases out of ten\*; and Mr. Hetherington said that he thought that every recommendation which he had made on a proposal for the extension of a Borough had been accepted.†

427. It was not, until recently, the practice of the Minister to give reasons in any detail for his decision to make an Order for the proposal contained in the representation, or for varying the proposal, or for refusing an Order. The letters by which his decision was announced to the Local Authorities concerned might include a brief statement of his reasons for refusing an Order, but his general policy was to announce his decision without explanation.‡

It followed that the recommendations contained in the Inspector's report to the Minister were not made public unless, as has happened in certain instances, the Inspector was subsequently examined on this point by a Parliamentary Committee who were considering the Bill to confirm a Provisional Order relating to the proposal.

The practice of announcing reasons for decisions was adopted systematically only in 1921, and the letters issued on the authority of the Minister in the cases to which this practice applied have been laid before us.

### **Considerations Affecting Past Decisions of the Minister.**

#### **AS TO THE CONSTITUTION OF COUNTY BOROUGHs.**

428. The main considerations which had been taken into account in the past by Ministers in coming to a decision whether to make or refuse an Order for the constitution of a County Borough were explained to us under the headings set out in the following paragraphs.

Before making or refusing a Provisional Order for the constitution of a Borough into a County Borough, the Minister is required under section 54 of the Act of 1888 to make up his mind whether the answer to two questions is in the affirmative or in the negative. The first question is one of fact, namely, is the population of the Borough not less than fifty thousand? The second question is one of policy, namely, is it desirable to constitute the Borough into a County Borough?

#### *Population of the Borough.*

429. We were told that the Minister in ordinary circumstances would favourably consider an application for the constitution of

\* Norton, Q. 4956-61 (II, 325).

† Hetherington, Q. 5777 (II, 371).

‡ Gibbon, M. 214 (I, 85), Q. 2292-302 (I, 94).

a County Borough if he were satisfied, first, that the population of the Borough, which was not less than 50,000, was permanent, and especially if the town were growing.\*

In amplification of this statement, it was explained that a permanent population meant a population not like that of a seaside resort, which might vary within wide limits according to the time of year†; that the population must be reckoned according to the limits of the Borough at the time when the application was made, and could not include the population of any proposed added areas which was necessary to make up the statutory number of not less than 50,000‡; and that while, as a rule, the figures of population as ascertained at the last Census were available, and would be accepted without dispute, there had been instances in which opponents to the proposal had raised the question whether the Town Council could satisfy the statutory condition that the population of the Borough in the sense already indicated must be not less than 50,000; and that in certain cases a special Census had been taken for the purpose of determining this point.§

*The Administration of the Borough.*

430. Secondly, the Minister must be satisfied that the town is shown to be well administered.|| On this point, we were informed that before coming to a decision on this and the other administrative issues involved in a proposal, the Minister would, in all cases in which the representation was entertained, have before him the definite information ascertained at the Local Inquiry.¶

*The Effect of the Proposal on County Administration.*

431. Thirdly, the Minister must be satisfied that the severance of the Borough from the Administrative County would not seriously detract from good County government, and that adequate arrangements could be made for the good and economical government of all the areas affected.\*\*

432. It was mentioned in supplementation of this statement that the Minister had not hitherto been favourable to the constitution of more County Boroughs within the area of Greater London, and that this attitude had been due to his sense of the importance of not prejudicing any general solution of the local government problems of this area, and also to a realization of the difficulties which would arise if the Administrative Counties

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\* Gibbon, M. 217 (1) (I, 95), Q. 2358-9 (I, 97).

† Gibbon, Q. 2307 (I, 95), Q. 2409-14 (I, 98).

‡ Gibbon, Q. 2348 (I, 96).

§ Gibbon, Q. 2368-9 (I, 97).

|| Gibbon, M. 217 (2) (I, 95).

¶ Gibbon, Q. 2308-9 (I, 95).

\*\* Gibbon, M. 217 (3) (I, 95).

round London were divided up. That is to say, the Minister had not at present been satisfied that County Boroughs could be constituted within this area without violating the condition that good County government should not be seriously impaired.†

433. It was added that in dealing with proposals for the constitution of County Boroughs, the Minister had taken into account not only the particular proposal before him but also the precedent which might be set by a decision to make an Order for the proposal, the influence which a decision to make the Order might have in encouraging other proposals, and the cumulative effect which the approval of a succession of proposals might have upon the local government of any Administrative County affected.‡

#### AS TO THE EXTENSION OF COUNTY BOROUGH BOUNDARIES.

434. Before making or refusing a Provisional Order for the extension of the boundaries of a County Borough, the Minister is required, under section 54 of the Act of 1888, to make up his mind whether the answer to one question is in the affirmative or in the negative. This question is one of policy, namely, is the alteration of the boundaries proposed by the Town Council, or any other alteration of the boundaries, desirable?

We were told that the considerations which the Minister had hitherto taken into account in deciding whether to grant applications for the extension of County Borough boundaries had been those set out in the following paragraphs, and that the ruling principle in his mind had been to secure efficient and economical local government with reasonable regard to the wishes of the inhabitants.§

#### *The Good Government of the Enlarged Area.*

435 First, "It is always considered whether the enlarged area will make a good local government unit readily administered and with probable economy. (The question of sewerage and sewage disposal often looms large in this connexion, particularly when for topographical reasons a common scheme is shown to be desirable. It is not, however, a governing factor, because, even when such a scheme is necessary, it does not follow that the whole area to be drained should be under one Authority, and the contention is sometimes given undue weight in arguments.)"\*

In amplification of the reference to "probable economy" to be secured by the extension, we were told that while a proposal would not be rejected solely on the ground that the expenses of administering the enlarged area might be greater than those which were required for the administration of the areas affected

† Gibbon, Q. 2313-42 (I, 95).

‡ Gibbon, Q. 2395-6 (I, 98).

§ Gibbon, M. 222 (I, 99).

\* Gibbon, M. 222 (I) (I, 99).

under their present form of government, it would be a ground for the rejection of the proposal if there were reason to believe that the extension would materially increase the cost of local government services required in the enlarged area.†

*The Good Government of Other Local Government Areas Affected.*

436. Secondly, "On the other hand, careful account is taken of the local government requirements of the areas which would be affected by an extension. As in the case of an application for County Borough status, the Minister satisfies himself that adequate arrangements can be made for the good and economical government of these areas before agreeing to an extension."‡

It was explained under this head that the Minister would take into account, in determining what the effect of granting or refusing the proposal would be, the general bearing of the proposal on the local government of any Administrative County affected by the proposal.§

*The Wishes of the Inhabitants.*

437. Thirdly, "It has been, and still is, a matter of sharp controversy how far the wishes of the inhabitants should predominate. It may be stated at the outset that the Minister pays the greatest respect to local wishes, but has never considered that they outweigh all other considerations.

"The question was brought into great prominence by the decision of the Joint Committee of the House of Lords and the House of Commons in the case of the Birkenhead Order of 1920. The Committee, in rejecting the Order, added the following paragraph (commonly referred to as the Kintore decision, Lord Kintore being the Chairman of the Committee) to their Report:—'They desire to add an expression of their opinion that (subject to special considerations of public advantage) no Provisional Order for Borough extensions should be brought before Parliament for confirmation which has not previously received the substantial support of the ratepayers in the areas proposed to be incorporated.'

"The issue was further tested in the Edinburgh Extension Bill of 1920, by which it was proposed to combine Leith with Edinburgh, and in connexion with which the Birkenhead decision was much in evidence. The Bill was recommitted to the Committee of the House of Commons on this very issue of the wishes of the inhabitants. The Committee further considered the Bill, but returned it to the House with a Report to the effect that, notwithstanding the Birkenhead decision and the opposition of Leith, which was clamorous, the public advantages

† Gibbon, Q. 2477-8 (I, 102), Q. 2480-1 (I, 102).

‡ Gibbon, M. 222 (2) (I, 99).

§ Gibbon, Q. 2742-3 (I, 114).



to be derived from incorporation were such that the extension was warranted. After a full debate the House of Commons then passed the Bill.”\*

*The Question whether a Proposed Added Area is an Outgrowth of the Borough.*

438. Fourthly, “It is a weighty consideration whether the area which it is proposed to include in a Borough is in fact an outgrowth. If it is, there is a presumption in favour of the proposal.”†

The consideration thus stated was examined at length in evidence, and we were told that the broad meaning of the statement that one place was an outgrowth of another was that the buildings situated in the second place were continuous with those situated in the first, and that it was therefore in the interest of the efficient administration of sanitary, educational and other services that the two places should be governed as one town, which in fact they had become.‡

439. We were also reminded that it was frequently sought to show that a County District was an outgrowth of a Borough by the submission of evidence that people made money in the Borough and went to live outside its boundary; or that people who lived in the Borough, and had to be provided with local government services at the expense of the Borough ratepayers, went to work in industrial establishments which had been built outside the Borough, because in the outside areas rates were lower or land was cheaper; or that a considerable proportion of the people who worked in industrial establishments situated within the boundaries of the Borough lived in houses, especially houses built under the schemes of Local Authorities, which were situated in the outside areas.§

440. We were further told that special considerations arose in dealing with the proper limits of a Borough which had outside it, on one side, a municipal housing scheme, and on another side an estate covered with houses of higher rateable value which provided accommodation for people who worked, not in the neighbouring Borough, but in a large centre at a distance; and that in such a case the Minister would have regard to the question whether the residential estate had developed on account of its neighbourhood to the Borough, the Borough being in a position to supply the outside area with sewerage and water.||

*Equity of Local Burdens.*

441. Fifthly, “Equity of local burdens has to be taken into account. Questions under this head may arise in two ways.

\* Gibbon, M. 222 (3) (I, 99), Q. 2496-9 (I, 103), Q. 2505 (I, 103).

† Gibbon, M. 222 (4) (I, 100).

‡ Gibbon, Q. 2517-9 (I, 104).

§ Gibbon, Q. 2542-5 (I, 104), Q. 2570-3 (I, 106).

|| Gibbon, Q. 2548-50 (I, 105).

“ There may be large works with a high rateable value outside the town from which it does not benefit rateably, but a large number of the persons employed at these works may live in the town. The houses of the workers may be rateably unprofitable, because a larger expenditure out of the rates is incurred in respect of the houses and their occupants (particularly on education) than is received in rates from them. Works which do not bear their fair share of the burden of rates in respect of their workpeople are indirectly subsidized.

“ In the other case, the area which it is proposed to add may contain the residences of well-to-do persons deriving their income, or a large part of it, from the town. It is urged that it is reasonable that a Borough should have the benefit of the rateable value of these residences, that in a sound local government area there should be a proper balance of high- and low-rated property, and that otherwise the well-to-do occupiers of highly-rated residences may not bear their fair burden of rates, and there is a danger of an ill-balanced community.”†

442 In explanation of this principle, we were told that in considering whether a Borough and a proposed added area could equitably be governed as one town, the Minister would have regard first of all to the question whether the Borough and the developed area beyond the Borough boundary were contiguous; and that the extent to which areas under separate local government should be united in order that their respective financial burdens might be borne in common was a matter of degree which must be determined on the facts of particular cases ‡

#### *Differential Rating.*

443 Sixthly, “ A Town Council, in its scheme for the extension of the Borough boundaries, frequently proposes differential rating between the old and the added areas and sometimes secures the consent of the outlying Authorities upon these terms. It has been contended, on behalf of County Councils, that an offer of differential rating is wrong and may, in fact, be a bribe.

“ The Minister considers that to warrant an extension there must be adequate reasons quite independent of any proposals as to differential rating. But if an extension is justified, then arrangements for differential rating are considered to be warranted, and have, indeed, been recognized by Parliament for many years, even before the Act of 1888 was passed. If there is a marked difference between the rates in the Borough and in the added area, it would be manifestly unwise that they should be abruptly levelled.

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† Gibbon, M. 222 (5) (I, 100).

‡ Gibbon, Q. 2644 f. (I, 110), Q. 2828 (I, 117).

" The normal provision is for a gradual assimilation of rates during a period of, say, 5 or 10 years, after which the rates in the added area attain the Borough level.

" The Minister does not hold himself responsible for the precise differential rating which is adopted in any particular case. He confines himself to being satisfied that the proposals appear generally reasonable and are not contrary to law and good government."\*

444 It was explained to us under this head that the measure of responsibility which the Minister had assumed for approving or refusing to approve proposals for differential rating as an element in a scheme of extension was that he would have inquiry made into the question why the precise terms proposed had been fixed, and would satisfy himself that they were not unreasonable, and that they did not contain anything which was contrary to the general law.†

*The Borough must be Well Administered.*

445. Seventhly, " An extension of boundary is not allowed by the Minister unless a town is shown to be well administered. Good administration in the Borough is a favourable factor for extension (not necessarily conclusive) if the added area happens not to be well administered."‡

446. Under this head it was explained to us that it was essential, if the Town Council's proposal were to be approved, either that their administration must be already good, or that the Council must undertake to remedy defects in administration which were not in themselves so serious as to make it right to reject the proposal; and that in cases of the latter kind it had been the practice of the Minister to insert definite requirements in the Provisional Order that the Council should take the necessary steps to bring their administration up to the necessary standard. It was further the practice of the Minister to investigate the question whether the proposed added areas were efficiently administered, and to inquire into allegations of maladministration made by any party interested in the proposal.§

*Community of Interest.*

447. Eighthly, " In almost all representations and claims for extension, the argument of 'community of interests' plays a large part. It is a vague phrase and has to be very closely investigated to see in what the community consists. Even when a close community is proved to exist, the argument is not conclusive. At

\* Gibbon, M. 222 (5) (I, 100).

† Gibbon, Q. 2773 (I, 115).

‡ Gibbon, M. 222 (6) (I, 100).

§ Gibbon, Q. 2799 (I, 116).

the same time, it does represent a real factor of which account has to be taken.”

448. This question was discussed at length in evidence, and it was explained that the Minister interpreted the expression “community of interest”, not as meaning that the Borough and a proposed added area had one particular matter in common, but as an expression of general significance. That is, the Minister would inquire into the question whether the areas had common economic interests or shared public services such as tramways, water supply, and, possibly, sewerage; whether the Borough was the general centre of the whole area affected by the proposal for shopping purposes or purposes of amusement; and whether the Borough and proposed added areas were interested in the same trades. None of these considerations taken separately would be conclusive in the Minister’s mind, but taken as a whole they would afford an important reason for granting or refusing a proposal, because if the various questions were so answered as to show that the two places were closely bound together, a presumption would be created, so far as the argument from community of interest went, that what was now separately governed ought in future to be governed as one.†

*Inclusion of Undeveloped Land.*

449. Lastly, “Town Councils often claim that their Boroughs are almost wholly developed, and that land should be brought within their boundaries to allow for expansion.

“This is not of itself considered to be a sufficient ground for extension. If, however, a case for extension is made out on other grounds, the Minister considers it right (if there are not special reasons to the contrary) that sufficient land for probable development in the near future should be included. In the case of growing towns, this practice tends to avoid repeated applications for extension.”‡

450. Under this head, it was explained that if a Town Council made a proposal merely on the ground that the area within their boundaries was closely built up and that they required undeveloped land outside the boundaries in order to give themselves space on which to build, their prospects of success would not be good. The Council had to be able to say, in addition, that most of the proposed added area was in fact, though not in law, part of the Borough, and was so regarded for practical purposes; that it ought to be included on these grounds; and that, since the town was growing, it would be reasonable to bring within the Borough boundaries a certain amount of undeveloped land lying beyond that part of the added area which could strictly be argued to be part of the Borough in fact.§

\* Gibbon, M. 222 (7) (I, 100).

† Gibbon, Q. 2808 (I, 116), Q. 2515-6 (I, 103), Q. 2822-3 (I, 117).

‡ Gibbon, M. 222 (8) (I, 100).

§ Gibbon, Q. 2837 (I, 117).

*Nature of the Foregoing Considerations.*

451. It will be observed that the considerations stated above as having been taken into account by the Minister in the past were all in the nature of positive conditions with which proposals by Town Councils for an extension of the Borough boundaries must comply if they were to succeed. Considerable attention was devoted in evidence to the question whether a similar statement could be given of what may be called negative conditions, that is, of the various circumstances which, if they were found to be present in particular cases, would contribute towards a decision by the Minister to refuse to make an Order for the proposal.

452 On this point, we were told that the considerations laid before us were expressed as positive conditions which the proposals of Town Councils must fulfil, because in each case it rested with the Town Council to suggest an alteration in the existing form of local government in the proposed added areas, and the presumption in the first instance was that the existing form of government would remain. It might, therefore, be assumed that unless a proposal satisfied all, or sufficient, of the positive conditions set out above, the Minister would refuse to make an Order for the proposal.† But it was possible to add that the Minister in all cases took into account the weight of any statement made by a County Council to the effect that their administration would be prejudiced if the proposal were granted, and that if he were satisfied that serious injury would result to County administration, he would refuse to make an Order.‡ There had also been cases in which the Minister had refused to entertain a proposal on the ground that an unduly short interval had elapsed since the last extension of the boundaries of the Borough was made, and that County administration would therefore be unreasonably prejudiced if the second application were favourably considered.§

**SECTION 2.—SUMMARY OF CRITICAL EVIDENCE.**

453. The principal issue discussed in the evidence as regards the existing law and procedure under which a County Borough may be constituted or extended was whether or not the procedure by application for the issue of a Provisional Order should be retained. The arguments for and against the retention of that procedure turned in the main on the questions—

- (a) Whether the existing authorities by whom proposals are dealt with are competent and impartial; and
- (b) Whether the procedure is unduly expensive.

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† Gibbon, Q. 2670-2 (I, 111), Q. 2717 (I, 113), Q. 2722 (I, 113).

‡ Gibbon, Q. 2637 (I, 109), Q. 2708 (I, 112).

§ Gibbon, Q. 2726 (I, 113).

### Statistics of Proposals.

454. We were furnished by the Department with the following particulars of the number of proposals for the constitution and for the extension of County Boroughs made under Provisional Order procedure and by Private Bill respectively, the extent of the opposition to these proposals, and the manner in which Parliament had dealt with them\* :—

	Proposals for Constitution of County Boroughs.		Proposals for Extension of County Boroughs.	
	Under Pro- visional Order Pro- cedure.	By Private Bill.	Under Pro- visional Order Pro- cedure.	By Private Bill.
Proposals made... ..	29	4	104	61
Proposals withdrawn or dropped ... ..	Nil	Nil	12	5
<i>Action before Parliamentary Stages.</i>				
Proposals rejected by Minister for special reasons without Local Inquiry.	3	—	7	—
Proposals sent to Local Inquiry ... ..	26	—	85	—
Proposals opposed at Local Inquiry ... ..	14	—	75	—
Proposals unopposed at Local Inquiry ... ..	12	—	10	—
Provisional Orders refused after Local Inquiry	3	—	13	—
Provisional Orders made ... ..	23	—	72	—
Provisional Orders for extension granting whole area asked for.	—	—	25	—
Provisional Orders for extension granting part of area asked for.	—	—	47	—
<i>Action during Parliamentary Stages.</i>				
Bills opposed in Parliament ... ..	14	3†	44	30†
Bills unopposed in Parliament ... ..	9	1†	28	31†
Bills rejected by Parliament ... ..	3	1	8	10
Bills confirmed by Parliament ... ..	20	3	64	46
Bills providing for extension confirmed without modification of area.	—	—	57	29
Bills providing for extension confirmed with modification of area.	—	—	7	17

455. In the following paragraphs the nature of the evidence for and against Provisional Order procedure is summarized.

### Evidence in Favour of Provisional Order Procedure.

#### RESPONSIBILITY OF THE MINISTER TO PARLIAMENT.

456. It will be remembered that under the existing law the Minister of Health is responsible (a) for deciding whether there are special reasons for which a representation ought not to be entertained; and (b) as regards proposals which go to Local

\* Ministry of Health (Gibbon), Appendix XLII (I, 207).

† These figures, furnished by the Ministry of Health, relate only to opposition by County Councils.

Inquiry, for deciding whether to refuse to make a Provisional Order for the proposal, or to make an Order either varying or not varying the proposal. In cases in which a Provisional Order is made, the Bill to confirm the Order is introduced into Parliament by the Minister.

The responsibility of the Minister to Parliament was mentioned in evidence as being advantageous; but there appeared to be some doubt on the question of the measure of the Minister's responsibility for the Provisional Order Confirmation Bill after its introduction into Parliament.\*

#### IMPARTIALITY OF THE MINISTER.

457. It was said in evidence by the late Sir Robert Fox that the Minister was strictly impartial, and he referred us to the particulars of proposals for extension made by the Leeds City Council as showing that, in the opinion of the Council, Ministers had "certainly shown no favour to Leeds."†

#### EVIDENCE IN FAVOUR OF THE LOCAL INQUIRY.

##### *The Independence of the Inspectors.*

458. The evidence given on behalf of the Inspectors themselves was to the effect that while they were aware of the previous decisions of Parliament and the Minister, they were not instructed by the Minister to report favourably or unfavourably upon particular proposals.‡ Sir Albert Gray, the late Counsel to the Lord Chairman of Committees, expressed the opinion that the Inquiry could not be conducted by any person more independent than the present Inspectors of the Department.§

##### *Qualifications of the Inspectors.*

459. We examined at length the question of the history and the results of the Minister's policy of entrusting the Local Inquiry to an Engineering Inspector of the Department.

At the present time, Inspectors are recruited from the ranks of civil engineers, and the special qualifications which they have on joining the staff of the Department are accordingly engineering qualifications. We were told that the large majority of the questions with which the Inspector has to deal at a Local Inquiry are questions which can only be fully appreciated through a knowledge of engineering; and that if the best method of training an Inspector were considered afresh, the first thing that he would have to do would be to learn engineering.||

\* County Councils Association (Dent), Q. 10,204-5 (III, 632).

† Association of Municipal Corporations (Fox), M. 58 (III, 524).

‡ Ministry of Health (Hetherington), Q. 5770-1 (II, 370).

§ House of Lords (Gray), Q. 5587 (II, 361).

|| Ministry of Health (Gibbon), M. 212 (I, 85), Q. 2271 (I, 93); (Norton), M. 12, (II, 313); (Hetherington), Q. 5745-9 (II, 370).

460. After joining the staff of the Department the Engineering Inspector has the opportunity of acquiring knowledge and experience which have not been available to him outside the public service. So far as Local Inquiries are concerned, he is sent in the first place to hold Inquiries into applications for loans for such purposes as sewerage or water supply schemes of a simple character. Such Inquiries would as a rule relate to the area of a single Local Authority, and the points to which the Inspector would have to devote his attention would be the physical features of the area, and such financial questions as the question whether the existing commitments of the Authority made it desirable to give them further powers to borrow money. §

In the next stage of the Inspector's experience, he would probably be entrusted with Inquiries relating to questions in dispute between two or more Local Authorities, such as Inquiries made by direction of the Minister into petitions under sub-section (3) of section 57 of the Act of 1888 against an Order of a County Council constituting or extending an Urban District. ‡

461. The Inspector would not be instructed to hold an Inquiry into any proposal under section 54 of the Act of 1888 until he had proved his capacity to deal with the types of Inquiry described in the preceding paragraphs. He might then be instructed to hold an Inquiry into a proposal for the extension of a Non-County Borough which did not raise highly contentious issues. Before such work was entrusted to him, he would attend an Inquiry held by one of his more experienced colleagues, and would sit throughout the proceedings in order to observe the method by which they were conducted.\*

The duty of holding Local Inquiries into proposals for the constitution or extension of County Boroughs is accordingly not one which is assigned to the Engineering Inspectors indiscriminately. The Inspectors selected to hold Inquiries of this type are a small minority of the whole number, and it is recognized that such an Inquiry is the most important and difficult task which can be assigned to an Inspector. †

462. The process of education through which an Inspector passes after joining the public service is that he adds to his original knowledge of engineering questions in their technical aspect

(a) A knowledge of the methods by which these questions are approached by Local Authorities;

(b) A knowledge of the engineering aspect of a large variety of local government services, such as scavenging and refuse disposal, housing, treatment of insanitary areas, the

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§ Ministry of Health (Norton), Q. 4891-903 (II, 323).

‡ Ministry of Health (Norton), Q. 4904-6 (II, 323).

\* Ministry of Health (Norton), Q. 4906-8 (II, 323).

† Ministry of Health (Gibbon), M. 212 (I, 85); (Norton), Q. 4906 (II, 323).



supply of gas and electricity, and the administration of public education and of roads ;

(c) A knowledge derived from his Inquiries, and from the information available in the Department, of all questions relating to boundary extensions and the fixing of boundaries, and of the condition of particular local government areas both from the physical and the administrative point of view ;

(d) A knowledge derived from his Inquiries of all the local government services and questions which may come before him in evidence at such Inquiries, e.g., education, justice and police, the arrangement of wards and electoral divisions, questions of local finance and rating, the administration of byelaws and Adoptive Acts, questions relating to hospitals and asylums, and questions relating to the administration of Joint Boards and Committees.

463. The general effect of this process of education was said to be that by the time an Engineering Inspector had proved his capacity to hold a Local Inquiry into a proposal for the constitution or extension of a County Borough, he had had a wide experience and great opportunities for enlarging his original outlook as an engineer in such a way that he would regard the proposal before him from a general standpoint, and would give due weight to all the circumstances which ought to be taken into account. He would therefore be qualified by his general knowledge to look at the proposal, and to advise the Minister upon it, in the light of all considerations which would enable the Minister to carry out his duty under the Act of deciding whether a Provisional Order should be made for the proposal on the ground that it was desirable.\*

Attention was drawn in evidence to the fact that it was within the power of the Minister, if he considered that any particular proposal required investigation from a particular point of view by some expert other than the Engineering Inspector, to associate any person he pleased with the Engineering Inspector in holding the Local Inquiry.†

464. If the qualifications which the Inspector brought with him to the Department, and acquired in the Department, could be regarded as satisfactory for the purposes of these Inquiries, it could be added that experience showed that personal investigation of the proposal by an Inspector thoroughly conversant with the issues raised in cases of this kind was of very great value in assisting the Minister to arrive at proper decisions on proposals. It had been found in practice that the reports of Local Inquiries prepared by officers with the education and training of the Engineering Inspectors were better than those prepared by

\* Ministry of Health (Gibbon), Q. 2272-8 (I, 93) ; (Norton), M. 12 (II, 313), Q. 4885-7 (II, 322) ; (Hetherington), Q. 5752-3 (II, 370).

† Ministry of Health (Gibbon), Q. 2283-4 (I, 94) : Association of Municipal Corporations (Fox), Q. 7928 (III, 526) : County Councils Association (Long), Q. 8827 (III, 566).

persons who looked at the issues primarily from other standpoints, for example, from the standpoint of law.\*

If so much were granted, it was administratively convenient to have the Local Inquiry held by an officer who could revisit the area, after a decision had been taken by the Minister, in order to settle subordinate questions as to the adjustment of boundaries or other matters, without re-opening any formal proceedings or adding to the expense of the Inquiry.†

465. Further, it resulted from the fact that the Inspector was an officer of the Department, and had access, as has already been explained, to the whole of the information in the possession of the Department, that one useful result of the holding of a Local Inquiry, quite apart from the decision ultimately arrived at, was that Local Authorities were persuaded to remedy defects in the administration of services with which the Department were concerned.‡

It was also urged that the knowledge obtained by the Inspector from Departmental sources, and from his personal investigation of the whole area affected, resulted in a saving of time, and therefore of money, at the Local Inquiry; first, because when the Inquiry opened the Inspector probably knew more than any other person present of the point of view from which the proposal was regarded by each of the parties concerned, and was therefore able to direct attention to the most material points§; and, secondly, because in the light of his knowledge he was able to appeal to counsel and witnesses to avoid any unnecessary prolongation of the proceedings, and in the last resort to refuse to hear evidence which was irrelevant or in the nature of a repetition.||

#### *Complete Presentation of the Case.*

466. We were told that fuller information was available to the Inspector at the Local Inquiry, because of its local character, than could possibly be obtained by a Parliamentary Committee, and that this statement covered not only particulars of sanitary administration, but all matters arising in connexion with the proposal. This view appeared to have the support of Sir Ernest Moon, the Counsel to the Speaker, who referred in his evidence to the importance of the special knowledge and experience of the Department; and it was emphasized by the late Sir Robert Fox.¶

\* Ministry of Health (Gibbon), M. 213 (I, 85), Q. 2262-8 (I, 93), M. 227 (I, 118); (Norton) Q. 4801 (II, 319).

† Ministry of Health (Norton) M. 12 (II, 313).

‡ Ministry of Health (Norton) M. 9 (II, 312).

§ Ministry of Health (Gibbon), Q. 2899 (I, 121); (Norton) Q. 4792 (II, 318).

|| Ministry of Health (Gibbon), M. 242 (I, 121); (Norton), M. 11 (II, 313), Q. 4720-2 (II, 315).

¶ Ministry of Health (Norton), M. 13 (II, 313), Q. 4919 (II, 324); House of Commons (Moon), M. 15 (II, 341); House of Lords (Gray), Q. 5598-601 (II, 362); Association of Municipal Corporations (Fox), M. 58 (III, 524); (Brooks), Q. 14,364 (IV, 888), Q. 14,386 (IV, 890).

*Elimination of Contentious Questions.*

467. Of 85 proposals for the extension of the boundaries of County Boroughs into which Local Inquiries have been held, 75 were opposed at the Local Inquiry.

Provisional Orders were made for 72 of these proposals (or variations of them), and of these Orders 44 were opposed in Parliament.

Of 26 proposals for the constitution of County Boroughs into which Local Inquiries have been held, 14 were opposed at the Local Inquiry. Of the Provisional Orders made for 23 of these proposals, 14 were opposed in Parliament. §

468. It will be seen that in a considerable number of cases the opposition to a proposal at the Local Inquiry has not been continued before Parliament, and it was suggested that from this point of view provision for a Local Inquiry was valuable, because it had the effect of reducing the total cost of the proceedings, while it provided the fullest possible opportunity for all parties concerned to be heard with the minimum of inconvenience to themselves. It was urged that any stage in the proceedings which afforded a chance of removing or diminishing opposition should be retained, in order to reduce to their most simple form the issues which would be presented to Parliament. ||

*Consideration Given to Private Persons.*

469. It was further suggested that the local character of the present Inquiry was advantageous in so far as it enabled private persons, or small associations of such persons, to appear and present their views with the minimum of expense and trouble, and we were told that it was well understood by the Inspectors who held the Inquiries that they should give every possible facility to persons who were not able to appear before them by counsel.\*

470. Colonel Norton thought that more local evidence was available at the Local Inquiry than could possibly be obtained before a Parliamentary Committee, and mentioned that Rate-payers' Associations, as well as certain individual ratepayers, liked to be heard, as they could at a Local Inquiry, but could not go to the expense of appearing before Parliament†; and Mr. Hooper told us that it was his practice to hear every private person who wished to be heard, whether he came from a large or a small parish, and whether he was interested as a property

§ Ministry of Health (Gibbon), Appendix XLII (I, 207).

|| Ministry of Health (Gibbon), M. 227 (I, 118), Q. 2859-62 (I, 119); (Norton), M. 4 (II, 311): Association of Municipal Corporations (Fox), Q. 7918 (III, 525): County Councils Association (Long), Q. 8831-3 (III, 567); (Vibart Dixon), Q. 10,787-8 (III, 685).

\* Ministry of Health (Gibbon), Q. 2875-6 (I, 120): Association of Municipal Corporations (Fox), Q. 7920-5 (III, 526); (Brooks), Q. 14,390-2 (IV, 890).

† Ministry of Health (Norton), M. 13 (II, 313), Q. 4810 (II, 319).

owner or as a ratepayer only.‡ Sir Ernest Moon, the Counsel to the Speaker, agreed that this consideration must be taken into account in favour of an Inquiry in the locality, and that it was beneficial to remove any alleged grievance on the part of such persons before the proposal was taken to London.§ Further, it is not the general practice of Parliament to allow opposition by individual ratepayers who have no other interest to Bills promoted by the Local Authority under whose jurisdiction they live.||

#### *Award of Costs to Private Persons.*

471. We were told that down to the date on which the evidence was heard it had not been the practice of the Department to give any costs to a private person who had made a successful opposition to a proposal by the Local Authority within whose area he lived. The reasons for this practice were, first, that there had been a doubt whether the Minister had power to compel one party to pay the costs of another incurred in proceedings at a Local Inquiry; and, secondly, that the Minister had hitherto taken the view that a Local Authority were acting in the general public interest in making a proposal, and that it would not be right that they should be compelled to pay costs if they failed. The question had, however, been recently reconsidered, and we understood that the Minister was likely to alter his practice in this respect.\*

Any payment of the costs of opposition to a private person would be on the basis that he would receive the amount of costs allowed on taxation, and it would remain for him to pay the difference between this amount and the amount of the costs which he had actually incurred.†

#### *Preparation of Provisional Orders.*

472. Our attention was drawn to the fact that, especially in cases in which a Provisional Order was made for the extension of a County Borough, provision was required in the Order for a large number of incidental alterations consequent on the extension; and we were told that it had been found to be advantageous for the purpose of drafting the Order to have available the result of the Inspector's local investigations and the reports of proceedings at the Local Inquiry, because during these investigations and proceedings the requisite consequential proposals would have been fully discussed. Further, the fact that the Orders were prepared

‡ Ministry of Health (Hooper), Q. 5832 (II, 373), Q. 5835-8 (II, 373).

§ House of Commons (Moon), Q. 5328-30 (II, 348).

|| House of Lords (Gray), Q. 5557-64 (II, 359): Ministry of Health (Symonds), Q. 24,209-13 (VII, 1422): Association of Municipal Corporations (Brooks), Q. 24,414-23 (VII, 1436).

\* Ministry of Health (Gibbon), Q. 2877-84 (I, 120).

† Ministry of Health (Gibbon), Q. 2885-6 (I, 120).

in the Department enabled the subordinate provisions to be elaborated in the light of the information available in the Department as regards each of the Local Authorities affected by the proposal.¶

473. Colonel Norton explained that one of the duties of an Inspector holding a Local Inquiry was to obtain the fullest information, and to advise the Minister, as to such consequential provisions as those for the representation on the County Borough Council of areas which might be included in the County Borough, the alteration of the numbers of members of any Local Authorities part of whose area might be added to the County Borough; alterations of County electoral divisions and of the membership of Joint Boards; and other matters of detail.\* The Counsel to the Speaker considered that the consequential provisions were very important, and were purely and solely matters for the Minister, and was anxious that they should not engage the attention of Parliamentary Committees, who could not be expected either to consider them on the spot or to give them the detailed attention which they received from the Inspector who held a Local Inquiry.† Mr. Jarratt, who had been concerned both with the constitution and with the extension of the County Borough of Southport, of which he is Town Clerk, told us from his experience that the drafting of the Order to carry out the Minister's decision must raise a number of questions on which it was desirable to refer back to the authority by whom the decision had been given, and that the present procedure had the advantage of enabling this consultation to be easily and effectively carried out.‡

#### *General Statements in Favour of the Local Inquiry.*

474. Our attention was drawn to the fact that from time to time the procedure by Local Inquiry has received commendation from Parliamentary Committees§, and the late Sir Robert Fox told us that he had not been authorized by the Association of Municipal Corporations to submit any alternative to this procedure, and that his personal view was in favour of retaining it.||

475. The late Lord Long, who had himself been Parliamentary Secretary and President of the Local Government Board, and in this capacity had seen, and taken decisions upon, a number of reports made by Inspectors who had held the Local Inquiry, gave

¶ Ministry of Health (Gibbon), M. 208 (I, 85), Q. 2081-2 (I, 86), Q. 2083-4 (I, 86); County Councils Association (Vibart Dixon), Q. 10, 789-92 (III, 658).

\* Ministry of Health (Norton), M. 13 (II, 313).

† House of Commons (Moon), Q. 5369 (II, 350), Q. 5371 (II, 350).

‡ Association of Municipal Corporations (Jarratt), Q. 15, 763-7 (IV, 959).

§ Ministry of Health (Gibbon), M. 228-9 (I, 119).

|| Association of Municipal Corporations (Fox), M. 58 (III, 524), Q. 7892 (III, 524); cf. Nicholson, M. 96 (V, 1160), Q. 19,013 (V, 1163), Q. 19,018-20 (V, 1163), Q. 19,032 (V, 1164); Lang-Coath, Q. 20,080-1 (VI, 1206).

us the following summary of his views on the merits of this procedure¶ :—

“ I have always thought—and I have had considerable experience, because I was six years Under-Secretary and five years President\*—that the Inquiries conducted by the Inspectors are among the very best forms of inquiry that you can possibly have. The President of the Local Government Board has the power to associate with the ordinary Inspector an expert or a barrister, or anyone else who he thinks may assist the Inspector, if he anticipates exceptional difficulties; and I cannot call to mind at this moment a single case in which the reports made by the Inspectors were not remarkable alike for their clearness and their impartiality.”

476. The foregoing paragraphs relate to the question whether the authorities at present responsible for the procedure by Provisional Order are competent and impartial. The remaining question is whether the procedure is unduly expensive.

*The Existing Procedure not Unduly Expensive.*

477. In the evidence directed to showing that, in general, no substantial objection could be taken to the existing procedure on the ground of its cost, it was suggested to us that the most important consideration to be borne in mind in determining whether the expenses were excessive was that, at any rate so far as the promoters of a proposal are concerned, it is for the Local Authority to be satisfied that they have the ratepayers behind them in putting forward the proposal, and in doing whatever they think is necessary to get it carried into effect.† There is, further, we were told, in some cases a feeling that the Town Council may be on their trial, and that, if allegations are made against the administration of the town, no expense must be spared in disproving such allegations.‡

478. We were reminded, further, that apart from any questions of sentiment, the questions at issue in most of the cases upon which heavy expenditure is incurred are of great importance, not only to the Town Council who promote the proposal, but to the opponents who believe that their areas are better off under the existing state of affairs. If a Borough is constituted into a County Borough, or a County Borough is extended, the benefit or detriment resulting from the change will be felt for many years to come, and it is not to be expected that any of the parties will forgo what they consider to be the best means of upholding their respective points of view before the authorities who have to reach a decision on the proposal.§

¶ County Councils Association (Long), Q. 8827 (III, 566).

\* Parliamentary Secretary, 1886–92; President, November, 1900, to March, 1905, and May, 1915, to December, 1916.

† Ministry of Health (Gibbon), Q. 2892–3 (I, 121).

‡ Ministry of Health (Gibbon) Q. 2894–5 (I, 121).

§ Ministry of Health (Norton), Q. 6010–4 (II, 381).

479. The question whether the expenses are reasonable cannot, in short, be determined in the abstract, for it is less important to have any particular limit of expenditure fixed than to secure that the parties who may be affected by any decision should be thoroughly satisfied that every relevant consideration has been put on their behalf to the authorities who give, or contribute to, the decision. All that can properly be done, therefore, by way of limiting expenditure in contested cases, is to look at the expenditure in fact incurred, and to determine whether in all the circumstances it was reasonable in amount.† Mr. Ellis, who had been Town Clerk of Plymouth when the Three Towns were united in 1914, a case in which the costs were not far short of £20,000, expressed the view that, taking into account the severity of the opposition, and bearing in mind that the Local Authorities had to take the existing procedure as they found it, and conduct their cases as best they could under it, the total expenditure was not excessive.‡

480. In the following paragraphs the arguments submitted to us as showing that, given the system, there is a reasonable return for the outlay in cases involving heavy costs, are briefly summarized.

#### *Preparation of the Case for Local Inquiry.*

481. We were reminded that the requirements of the Minister in the Provisional Order Instructions, and the other requirements for information with which a Local Authority had to comply before the Local Inquiry, were such as to need a great deal of preparation, and that in certain cases it might well be best for the Authority to obtain expert assistance in preparing the particulars.\* Mr. Postlethwaite, the principal witness on behalf of the Urban District Councils Association, representing Local Authorities who normally appear in opposition to a proposal by a Town Council, said that it was impossible for the officers of Urban District Councils to conduct such cases themselves, both because they had not the time, and because they had not the special knowledge required. He considered, therefore, that for such Authorities the assistance of counsel and expert witnesses was indispensable if their case was to be properly presented to the Inspector at the Local Inquiry.§

† County Councils Association (Dent), Q. 10,368-71 (III, 638).

‡ Association of Municipal Corporations (Ellis), M. 51 (VI, 1261), Q. 21,215-23 (VI, 1261).

\* Ministry of Health (Gibbon), Q. 2898-9 (I, 121).

§ Urban District Councils Association (Postlethwaite), Q. 22,403 (VI, 1330), Q. 22,406-7 (VI, 1330).

*Employment of Counsel and Expert Witnesses.*

482. At various times in the last twenty years the Minister has protested, in Annual Reports, by circulars, and by other means of communication, against what he has regarded as extravagant expenditure, both by Authorities making proposals and by Authorities opposing them, incurred in the employment of counsel and expert witnesses. The general objection taken to such expenditure has been that the object of Local Inquiries is not to afford opportunity for the discussion of intricate points of law, but to ascertain facts which, in the Minister's view, could ordinarily be communicated to the Inspector by officers or members of the Authorities, or other persons; and that the detailed evidence often submitted to the Inspector at the Inquiry has little bearing on the most important issues by which the Inspector's report and the Minister's decision are governed. At the same time, we were informed that the Minister appreciated fully the value of the services of counsel and expert witnesses; that is, that his view of the question was that the proper amount of expenditure was a matter of degree.‡

483. The evidence of representatives of Local Authorities was not favourable to any restriction on the discretion of the Authorities to employ such counsel and expert witnesses as they thought fit.

First, it was urged that any limitation of this discretion would unfairly handicap those Authorities who were normally in the position of opposing proposals for the extension of County Boroughs; that is to say, the Authorities who had smaller resources than the County Borough Councils, and were consequently unable to draw to the same extent upon the special knowledge and experience of their own officers in dealing with a proposal.\*

Secondly, it was emphasized on behalf of the Local Authorities, and admitted on behalf of the Department, that even if the Clerk of the Local Authority making a proposal happened to have the time and ability necessary to enable him properly to conduct the Council's case, he was placed in an invidious position if he were compelled, at the Local Inquiry, to cross-examine the officers or members of other Local Authorities with whom it was essential for the purposes of his ordinary duties that he should maintain friendly relations. It was also pointed out that if the proposal were unsuccessful the blame would fall upon the Clerk, and that, if it succeeded, he might not get a due share of the

‡ Ministry of Health (Gibbon), M. 236-41 (I, 120), Q. 2873 f. (I, 120).

\* County Councils Association (Dent), M. 75 (III, 629): Association of Municipal Corporations (Lang-Coath), Q. 20,101-3 (VI, 1207): Urban District Councils Association (Postlethwaite), M. 14 (VI, 1328), Q. 22,409-10 (VI, 1330).



credit. It was even possible that he might have to appear in opposition to some of the ratepayers in his own area.†

Thirdly, from the point of view of the Inspector, who had to conduct the Inquiry and do his best to ascertain what the main issues were, it was represented to us that the presence of expert witnesses might in certain cases be essential to enable the Inspector to arrive at proper conclusions on material facts.‡

### **Evidence Against Provisional Order Procedure.**

484. The principal witness by whom evidence of this character was offered was Mr. Dent, on behalf of the County Councils Association.

The views expressed by him on behalf of that Association were supported by the representatives of the Urban District Councils Association and (subject to one qualification mentioned in paragraph 512 below) of the Rural District Councils Association.

#### **FAILURE OF THE PROCEDURE TO COMMAND CONFIDENCE.**

485. The consideration which governed the whole of this evidence was that the Provisional Order procedure was administered, up to the point at which the Minister decided to make or refuse the Order, by authorities who were neither competent nor impartial.

#### *Criticism of the Present Local Inquiry.*

486. Dealing first with the general effect of the present procedure by Local Inquiry, Mr. Dent said that the manner in which the Local Inquiry was conducted tended to the disadvantage of the County Councils and rather to the buttressing up, if that were not too strong a word to use, of the applicants' case by the official view of the Department's expert. He thought that the Inspector attached undue weight to questions of sanitary administration, and he said that it was very strongly felt that the Department considered it generally desirable, wherever possible, to absorb smaller Local Authorities in larger ones, and to arrive at unification; that they looked at the proposal from the point of view of their own Department and from that point of view almost alone; and that they left out of sight the much wider issue upon which section 54 of the Act required the Minister to take a decision, namely, the question whether a proposal was in the interest of good government as a whole.\*

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† Ministry of Health (Gibbon), Q. 2888-90 (I, 121); (Norton), Q. 5956 (II, 378); Association of Municipal Corporations (Lang-Coath), Q. 20,099-100 (VI, 1207); Urban District Councils Association (Postlethwaite), Q. 22,403-5 (VI, 1330).

‡ Ministry of Health (Norton), Q. 5944-5 (II, 377).

\* County Councils Association (Dent), Q. 6809-13 (III, 456), Q. 6819 (III, 456), Q. 10,145 (III, 630), Q. 10,150-1 (III, 630); cf. Vibart Dixon Q. 10,378 (III, 640).

Accordingly, we were informed that the procedure did not command the confidence of County Councils so far as the Local Inquiry by the Inspector was concerned.

*Criticism of the Minister's Advisers.*

487. Next, as regards the position of the Minister who had to take a decision on the Inspector's report, we were told that County Councils believed that the influence of the officers of the Department formed a tradition and a policy as regards proposals of this kind, and that, apart from any external influence hostile to that policy, and from cases in which the policy was clearly inapplicable, the Minister would tend to accept the advice offered to him.\*

*Criticism of the Minister's Position in relation to Provisional Order Confirmation Bills.*

488. Whether or not this were so, a further objection was taken to the manner in which the Provisional Order Confirmation Bill came before Parliament. It was said that Parliament assumed, from the fact that there had been a Local Inquiry, and that the Order had subsequently been made by the Minister, that the Minister was satisfied that the proposal ought to be granted. Hence, although the Order came before Parliament as, in form, a Provisional Order only, the case was already at that stage, in substance, weighted in favour of the Town Council who had made the proposal, and opponents of the proposal did not have the chance of proving their case to Parliament which they ought to have.†

489. It was admitted that different views had been taken by different Ministers of the measure of their responsibility in submitting a Provisional Order Confirmation Bill to Parliament, and that the most recent pronouncement by a Minister on this question had been to the effect that in introducing the Bill he did not go further than to indicate that there was a *prima facie* case in favour of the proposal, upon which it was for Parliament to take a decision.‡

Whatever may be the proper construction of the Act on this point, or the proper view of the Minister's responsibility, the witnesses who objected to the procedure said that in practice Parliamentary Committees did not regard the Minister's introduction of the Bill as a purely formal act, and that it had an undue influence, at any rate in some important cases, upon the mind of the Committees and the Houses of Parliament.§

\* County Councils Association (Joy), M. 37 (V, 1091), Q. 17,672 (V, 1091).

† County Councils Association (Joy), Q. 17,709-11 (V, 1093).

‡ County Councils Association (Vibart Dixon), Q. 10,556f. (III, 649); (Joy), Q. 17,712-17 (V, 1093).

§ County Councils Association (Dent), Q. 6812 (III, 456), Q. 6818-9 (III, 456); (Joy), Q. 17,709-10 (V, 1093).

*The Restoration of Confidence is Essential.*

490. Witnesses who did not share the view expressed on behalf of the County Councils Association as to the competence and impartiality of the Minister and his officers nevertheless agreed that the present procedure was unsatisfactory if any party concerned with proposals made under it considered that the authorities who had to deal with the proposals were prejudiced.

491. The late Sir Robert Fox said on behalf of the Association of Municipal Corporations that he recognized that a tribunal should not only be competent and impartial, but should also be acceptable to the parties appearing before it; and that if, therefore, County Councils had any alternative procedure to suggest, Town Councils would be glad to have an opportunity of considering it.‡

492. Mr. Jarratt, the Town Clerk of Southport, expressed a personal view to the same effect, saying that the only reason for which he would agree to any change in the present procedure was that he did not like fighting an adversary who himself complained against the tribunal before whom the fight was to be. He thought it important that the tribunal, whatever it were, should be one which was accepted by County Councils as well as by Town Councils. He felt that the objections raised on behalf of County Councils to the present administration of the Act by the Minister of Health in particular, and to a less degree by Parliament, made it clear that County Councils did not trust the authorities at present responsible, and if a procedure could be suggested under which they would go before the proper authorities with a feeling that they would get the impartial judgment they wanted, he would agree that the feeling of County Councils was a reason for altering the existing procedure, and would accept the alternative.\*

493. Mr. Ellis, the former Town Clerk of Plymouth, expressed the same view in the following paragraph of his memorandum of evidence† :—

“The suggestion as to the policy of the Board, and the subservience of the Inspector to that policy, made by Devonport has, I observe, been made in the course of the Commission’s inquiry.

“Although in the Plymouth case the House of Commons Committee dissociated themselves from the attack and vindicated the Inspector, and although my experience of these Inquiries leads me to believe that the Inspectors who conduct them are high-minded, impartial, and able men who investigate thoroughly and report fairly, it cannot be to the interest of the parties and of local government that there should be any lack of confidence in the arbitrament of the tribunal of first instance.”

‡ Association of Municipal Corporations (Fox), M. 37 (III, 501).

\* Association of Municipal Corporations (Jarratt), Q. 15,734 (IV, 957), Q. 15,742 (IV, 958).

† Association of Municipal Corporations (Ellis), M. 52 (VI, 1261).

CRITICISM OF THE QUALIFICATIONS OF THE ENGINEERING  
INSPECTORS.

494. Turning from these general considerations to criticisms of a more detailed kind, Mr. Dent expressed the view that the qualifications, training, and experience ordinarily possessed by an Engineering Inspector of the Ministry of Health were by no means sufficient to enable him to conduct Local Inquiries properly†, and he amplified this view as follows in answer to a question§ :—

“ We have felt that the tendency has been for the Local Inquiry to be held by an official who comes with the official mind, if I may say so without any offence, and with one view in his mind—the public health side of the question. We think that tends to prejudice the inquiry in favour of the applicants, and I do not say to exclude, but to give insufficient consideration to, the wider aspects of the question as an administrative one, which is the main subject to be investigated. The Local Inquiry should establish whether there is a case on the ground of desirability. In the first place, we do not think it desirable that the man who holds the preliminary investigation should hold the Local Inquiry, and, secondly, we are not agreed that Local Inquiries should be presided over by a man whose qualifications are mainly those of a sanitary engineer rather than those of a man with a judicial mind.”

495. He agreed that the Engineering Inspectors added to their technical qualifications a large amount of knowledge derived from service in the Department, and that it would be difficult without technical engineering knowledge to conduct the Inquiries and understand them properly ; but he felt that the practice had been to leave out of sight to a great extent what he called the broader administrative issue, which County Councils thought was by far the most important question to be weighed. The main question was whether the proposal was desirable from the point of view of administration or good government as a whole, and he did not think that this question could properly be decided by an expert. He suggested that it should be decided by a person with a judicial mind, and with all-round administrative experience, who should, if necessary, have experts available to him as assessors who would advise him if he wished to deal with technical points.\*

496. In the opinion of Mr. Dent and other witnesses, the deficiencies in the qualifications of the Inspector had the result that engineering questions, and especially questions of sanitary administration, were given undue weight at the Local Inquiry, and in consequence unduly influenced the Minister's decision upon proposals.†

† County Councils Association (Dent), M. 71 (III, 629).

§ County Councils Association (Dent), Q. 10,145 (III, 630).

\* County Councils Association (Dent), Q. 10,148–53 (III, 630).

† County Councils Association (Dent), Q. 10,165 (III, 631), Q. 10,167 (III, 631) ; (Joy), Q. 17,683–7 (V, 1091) ; (Jackson), Q. 11,257–60 (III, 688) ; Urban District Councils Association (Postlethwaite), M. 10 (VI, 1328) ; Rural District Councils Association (Pindar), M. 9 (VI, 1362), Q. 23,108–9 (VI, 1363).

497. The evidence of the Engineering Inspectors of the Ministry of Health related in the main to Inquiries held before, or shortly after, the outbreak of war in 1914, and it was admitted by Colonel Norton that, having regard to the functions then entrusted by Parliament to County Councils, the position of those Authorities had not been primarily so much in the minds of himself and other Inspectors as the position of the Town Councils by whom proposals were made, and of other Sanitary Authorities whose areas lay on the borders of Boroughs. He was of opinion that, so far as sanitary administration was concerned, the Inspector had not been able to rely upon the existing powers of County Councils as being sufficient to remedy defects in sanitary administration, and that accordingly the question whether this branch of administration could not best be improved by including areas in a Borough would, in the existing circumstances, have been a very important consideration in the Inspector's mind.\*

#### THE PROCEDURE IS INELASTIC AND INEFFECTIVE.

498. The Counsel to the Speaker considered that the Provisional Order procedure was open to the objection that, in deciding whether to make or refuse an Order, the Minister might feel himself hampered either by the general policy of the Government of which he was a member or by the decisions of his predecessors in office.†

499. Mr. Dent thought that one advantage of putting proposals directly before Parliament by Private Bill was that Committees of Parliament took a wider view of the issues, were not so much obsessed by official opinions, and looked at the engineering problems involved in a proper perspective.‡

500. Other witnesses were of opinion that the discrepancy between the decisions of the Minister to make Orders and the decisions of Parliament upon the Bills to confirm the Orders showed that the procedure had become ineffective§; and it was suggested that the decisions of Parliament on proposals affecting a particular Administrative County proved that the Minister's view in making Provisional Orders had been erroneous||; and that the fate of the Provisional Order Confirmation Bills dealt with in a particular Session proved that the Inspectors were not competent to deal with the more important and contentious proposals.¶

\* Ministry of Health (Gibbon), Q. 2265 (I, 93); (Norton), Q. 4911-6 (II, 324), Q. 4923 (II, 324), Q. 4936-41 (II, 325), Q. 4945 (II, 325).

† House of Commons (Moon), Q. 5426 (II, 353).

‡ County Councils Association (Dent), Q. 10,196 (III, 632).

§ County Councils Association (Vibart Dixon), Q. 10,761-2 (III, 657), M. 18 (III, 658).

|| County Councils Association (Watts Morgan), Q. 12,824-7 (IV, 807), Q. 12,845-8 (IV, 808).

¶ Urban District Councils Association (Postlethwaite), M 11 (VI, 1328).

## THE PROCEDURE IS UNDULY EXPENSIVE.

501. Our attention was drawn to an expression of opinion by a Parliamentary Committee in 1920 to the effect that Local Inquiries were not only quite disproportionate in their results to the great expense which they involved, but that they also did not appreciably conduce to any economy of Parliamentary time. §

The objections to the procedure raised under this head rested rather upon the view that the costs incurred in cases which were opposed not only at the Local Inquiry, but also subsequently in Parliament, were excessive, than upon a consideration of the costs incurred either at Local Inquiries, or in Parliament, looked at in isolation from each other. ||

502. The question was discussed in the evidence of Sir David Brooks, a former Lord Mayor of Birmingham, who expressed the view that the excessive cost and the cumbersome methods involved were the main objections to the procedure. He explained that the cases which he had in mind were those in which the Local Inquiry was followed by Parliamentary proceedings on opposed Provisional Order Confirmation Bills, and that he did not mean that the Local Inquiry, taken as a single inquiry, was unduly expensive. If there were to be a Local Inquiry at all, he agreed that the concentration in a provincial town of counsel and expert witnesses was necessarily expensive; and he added that he did not consider the Local Inquiry, in itself, as a cumbersome proceeding, but applied this term to the procedure as a whole. ¶

503. It has already been explained that the Minister has for many years past taken the view that the procedure is in certain cases unduly expensive.

Apart from any saving of expense which the Local Authorities concerned may effect voluntarily by restricting the employment of counsel and expert witnesses, we understand that there are three ways in which the Minister may find if possible, after the event, to indicate his disapproval of what he regards as unreasonable expenditure in costs. In the first place, the costs of promoting and opposing Provisional Orders have to be sanctioned as reasonable by the Minister before they can legally be paid. In practice, however, no check is thereby imposed upon Authorities whose accounts are not subject to Government audit, that is, the great majority of Town Councils, if the Authority are prepared to pay their costs out of current rates. If the Authority are subject to Government audit a surcharge might be made in respect of the costs, and this has been done in some cases, though it is not a practice which could be made generally effective.

§ Association of Municipal Corporations (Smith), M. 15 (V, 1028).

|| Association of Municipal Corporations (Jarratt), Q. 15,735 (IV, 958): Urban District Councils Association (Postlethwaite), M. 9 (VI, 1327).

¶ Association of Municipal Corporations (Brooks), M. 15 (IV, 886), Q. 14,358 (IV, 888), Q. 14,396-409 (IV, 891).

In the second place, if it is necessary for an Authority to raise a loan for the purpose of defraying costs, as is often the case, it is possible for the Minister to take more definite action; and in several instances he has refused to allow the money needed to defray part of the costs to be borrowed, with the result that this part of the total expenses has had to be defrayed out of current rates.

Thirdly, the Minister has recently emphasized his objection to unnecessary heavy expenditure in these cases by informing Local Authorities that he proposes in suitable circumstances to use his power to require the payment by one party of the costs, or part of the costs, incurred by other parties.\*

## CHAPTER VIII.—PROPOSALS AND SUGGESTIONS MADE IN EVIDENCE FOR THE ALTERATION OF THE PROCEDURE UNDER SECTION 54 OF THE LOCAL GOVERNMENT ACT, 1888.

### The Main Proposals of the County Councils Association.

504. It will be seen from the foregoing summary of the criticisms made in evidence of the existing procedure by application for Provisional Orders under section 54 of the Local Government Act, 1888, that the view upheld by witnesses on behalf of the County Councils Association was that this form of procedure was in general unsatisfactory. Their proposals for its alteration were accordingly directed to limiting the extent to which it should be applied in future. In putting forward their proposals they drew a distinction between the cases in which opposition to the constitution or extension of a County Borough did not arise, or was not aimed at the principle of the application, and cases in which there was opposition to the principle of the application.

#### PRIVATE BILL PROCEDURE SHOULD BE OBLIGATORY IN CASES OPPOSED IN PRINCIPLE.

505. Mr. Dent and other witnesses on behalf of County Councils submitted that the existing law should be altered so as to require Town Councils to proceed by Private Bill† in making any application which was opposed in principle, by the repeal of the provision of section 54 of the Act of 1888 which enables them in the alternative to proceed by representing to the Minister of Health that a Provisional Order should be made.

506. Mr. Dent was understood to accept the suggestion that the foregoing proposal might be modified to the extent that section 54 should only be so amended as to empower the Minister,

\* Ministry of Health (Gibbon), M. 238-41 (I, 120), Q. 2901-10 (I, 121).

† Dent, M. 72 (III, 629), Q. 10,201 (III, 632), Q. 10,206 (III, 632); Taylor, Q. 9805 (III, 612); Vibart Dixon, Q. 10,779 (III, 658); Joy, Q. 17,676-7 (V, 1091), Q. 17,688 (V, 1092).

on receiving a representation, to determine whether the proposal was one of such magnitude that it could not properly be dealt with by Provisional Order, but ought to be dealt with by Private Bill.||

507. One witness on behalf of County Councils thought that the existing alternative methods of procedure should be retained in cases opposed on principle, so that Town Councils should continue to be empowered, but should not be required, to proceed by Private Bill, because in his opinion Provisional Order procedure was preferable in so far as it included provision for a Local Inquiry.\*

PRIVATE BILL PROCEDURE SHOULD BE PERMISSIVE IN CASES  
UNOPPOSED OR NOT OPPOSED IN PRINCIPLE.

508. Mr. Dent and other witnesses on behalf of County Councils agreed that in cases of this type the existing alternative methods of procedure should be retained, that is, that Town Councils should be at liberty to proceed either by Private Bill or by representing to the Minister of Health that a Provisional Order should be made to give effect to their proposal.†

509. One witness on behalf of County Councils suggested that applications which were unopposed should be dealt with by Special Order procedure, in order to save Parliamentary time, and expense in carrying through the proposal. Under that procedure an unopposed application would be investigated at a Local Inquiry held by direction of the Minister of Health, and a Special Order giving effect to the application would be laid before Parliament, and would become law if it were specifically approved by a resolution of each House.‡

510. It was recognized that difficulty in applying a rule that applications which were unopposed, or not opposed in principle, should be dealt with otherwise than applications which were opposed in principle, would be likely to occur in determining whether an application which was not wholly unopposed ought to be dealt with under the one procedure or the other.§

**The Proposals of the Urban District Councils Association.**

PRIVATE BILL PROCEDURE SHOULD BE OBLIGATORY IN  
ALL CASES.

511. Mr. Postlethwaite, the principal witness on behalf of the Urban District Councils Association, suggested that the preferable course would be to repeal section 54 of the Act of 1888,

|| Dent, Q. 10,315 (III, 636).

\* Holland, Q. 18,350 (V, 1122), Q. 18,373 (V, 1122), Q. 18,443-4 (V, 1125).

† Dent, M. 71 (III, 629), Q. 10,144 (III, 629), Q. 10,168-9 (III, 631);

Vibart Dixon, Q. 10,780 f. (III, 658); Watts Morgan, Q. 12,831 (IV, 807).

‡ Joy, Q. 17,689-90 (V, 1092), Q. 17,694 (V, 1092), Q. 17,705 (V, 1093).

§ Joy, Q. 17,698-9 (V, 1092), Q. 17,702 (V, 1093), Q. 17,705 (V, 1093).



so far as it relates to proposals for the constitution or the extension of County Boroughs, so that Town Councils would be required in every case to proceed by Private Bill.||

Alternatively, if it were not considered practicable to alter the existing law to this effect, he was prepared to accept the suggestion discussed with Mr. Dent under which applications originally made for Provisional Orders would be permitted to go forward under that procedure, or would be required to be dealt with by Private Bill, according to the measure of opposition to each application which arose.\*

### **The Proposals of the Rural District Councils Association.**

PRIVATE BILL PROCEDURE SHOULD BE PERMISSIVE IN ALL CASES.

512. The witnesses on behalf of the Rural District Councils Association suggested that the existing alternative methods of procedure should be retained for the purposes of any proposal either for the constitution or the extension of County Boroughs, so that Town Councils would be at liberty in each case to proceed either by Private Bill or by representing to the Minister of Health that a Provisional Order should be made.†

But their assent to the retention of Provisional Order procedure was conditional upon the understanding that, if an application were dealt with under that procedure, any Local Inquiry into it should not be held, as it would have been in the past, by an Engineering Inspector of the Ministry of Health, but by a body constituted for the purpose on the lines which are described in paragraphs 521-4 below.‡

### **Questions Arising under the Main Proposals of the County Councils Association.**

AS TO THE POSITION OF THE MINISTER OF HEALTH AND HIS OFFICERS.

513. It will be seen that under the main proposals for the amendment of the existing law made on behalf of the County Councils Association, and supported in the evidence on behalf of the Urban District Councils Association, Private Bill procedure would be substituted for Provisional Order procedure in all cases in which the application of a Town Council was opposed in principle.

514. The consequential question whether any alteration would be desirable in the practice under which the Minister of Health

|| Postlethwaite, Q. 22,427 (VI, 1331), Q. 22,444 (VI, 1333), Q. 22,472 (VI, 1334), Q. 22,474 (VI, 1334).

\* Postlethwaite, Q. 22,460-1 (VI, 1334), Q. 22,465-7 (VI, 1334).

† Pindar, M. 8 (VI, 1362), Q. 23,106 (VI, 1363); Williams, M. 40 (VI, 1388), Q. 23,663-9 (VI, 1389).

‡ Pindar, M. 11 (VI, 1363), Q. 23,125-6 (VI, 1363); Williams, M. 45 (VI, 1388), Q. 23,705-8 (VI, 1390).

makes reports upon all Private Bills affecting matters within the sphere of his responsibility, was also discussed in evidence.

Sir William Vibart Dixon suggested that if Provisional Order procedure were in future to be available only in cases of applications not opposed in principle, the Minister of Health should be required to make a more detailed report upon any Private Bill providing for the constitution or extension of a County Borough than is his present practice when Town Councils elect to proceed by Private Bill, and, in consequence, no statutory Local Inquiry is held into the proposal.\*

515. The question of the nature of the Minister's report carries with it the question whether for the purpose of making any report the Minister should cause any local investigation to be made.

On this point, Mr. Joy suggested that there should be no local investigation under Private Bill procedure except a preliminary investigation ordered by the Minister to enable him to make his report, and that any officer by whom the investigation was held should be subject to examination by any Committee of Parliament which dealt with the Bill in the House.†

Colonel Watts Morgan thought that it was not desirable that a local investigation should be held either by an Inspector of the Department or by any other body.‡

516. Mr. Ellis, the former Town Clerk of Plymouth, made the suggestion that a local investigation might be held on the Minister's authority into a proposal put forward by Private Bill, but that the scope of such an investigation should be limited.§ The investigation should, he thought, be held by an Inspector of the Department, who would be instructed to restrict himself to the ascertainment of facts, and would not hear counsel or expert witnesses.|| The Inspector should make a report on the facts alone, which should be laid before Parliament, and upon which he should be liable to examination by Parliamentary Committees.¶ But, in addition, the Minister should be at liberty to present to Parliament a report, accompanying the Inspector's report on the facts, on the question whether in the Minister's opinion the proposal was desirable.\*\*

517. Mr. Postlethwaite, on behalf of the Urban District Councils Association, said that while the Minister should retain his present power of making reports upon Bills containing pro-

\* Vibart Dixon, Q. 10,812-3 (III, 660).

† Joy, Q. 17,694 (V, 1092).

‡ Watts Morgan, Q. 12,828-30 (IV, 807), Q. 12,847 (IV, 808), Q. 12,859-62 (IV, 808).

§ Ellis, M. 53-4 (VI, 1261), Q. 21,333 (VI, 1262).

|| Ellis, M. 53-4 (VI, 1261), Q. 21,229 (VI, 1262), Q. 21,243 (VI, 1263), Q. 21,257-65 (VI, 1264).

¶ Ellis, Q. 21,229 (VI, 1262), Q. 21,235 (VI, 1262), Q. 21,243 (VI, 1263), Q. 21,287 (VI, 1265), Q. 21,324 (VI, 1267).

\*\* Ellis, Q. 21,248-9 (VI, 1263), Q. 21,271-2 (VI, 1264), Q. 21,277-8 (VI, 1265), Q. 21,320-2 (VI, 1266).

posals for the constitution or extension of County Boroughs¶, Urban District Councils would object to any provision enabling him to cause a local inquiry to be made for the purposes of his report upon such Bills\*; and he criticised Mr. Ellis's suggestion on the grounds that it would prove impracticable to limit the scope of a local investigation by an Inspector to the ascertainment of facts†, and that it was inadvisable to empower the Minister to present a report to Parliament on questions of policy which would accompany his Inspector's report on facts.‡

#### AS TO THE INFORMATION TO BE FURNISHED BY TOWN COUNCILS.

518. A further question discussed in evidence as consequential upon the proposals to extend the use of Private Bill procedure was whether, under the present Standing Orders of Parliament which relate to Private Bills, Town Councils are required to give sufficient particulars relevant to applications for the constitution or extension of County Boroughs to enable other Local Authorities properly to consider whether to oppose the applications.

Mr. Dent, on behalf of the County Councils Association, suggested that any Private Bill providing for the constitution or extension of a County Borough should be accompanied, at the date of its deposit in Parliament, by a printed statement of facts identical with the statement which Town Councils are now required to furnish under the Instructions relating to applications made under Provisional Order procedure.§

The witnesses on behalf of the Urban District Councils Association and the Rural District Councils Association supported this suggestion.||

#### The Alternative Suggestions of the County Councils Association.

519. Mr. Dent and other witnesses on behalf of the County Councils Association made it clear that the proposals for the alteration of the existing law and procedure already summarized were those which they submitted to us in preference to any alternative suggestions, and were the only proposals which in their view would afford a satisfactory basis upon which to deal in future with applications for the constitution or extension of County Boroughs.

At the same time, they described in evidence an alternative series of suggestions, which they put forward, not as a desirable

¶ Postlethwaite, Q. 22,424 (VI, 1331), Q. 22,426 (VI, 1331), Q. 22,445-7 (VI, 1333).

\* Postlethwaite, Q. 22,439-43 (VI, 1332).

† Postlethwaite, Q. 22,411 (VI, 1330).

‡ Postlethwaite, Q. 22,412 (VI, 1330), Q. 22,418 (VI, 1331), Q. 22,420-3 (VI, 1331), Q. 22,435-8 (VI, 1332).

§ Dent, M. 73 (III, 629), Q. 10,327-9 (III, 636), Q. 10,334-7 (III, 637).

|| Postlethwaite, M. 19 (VI, 1328), Q. 22,416-8 (VI, 1331), Q. 22,493-8 (VI, 1335); Pindar, M. 14 (VI, 1363), Q. 23,140-2 (VI, 1364).

alternative, but as the minimum alteration of the existing law and procedure which they would regard as equitable if the option of Town Councils to make application in any case either by Private Bill or under section 54 of the Act of 1888 were retained

PROVISIONAL ORDER PROCEDURE, IF APPLICABLE TO ALL  
CASES, SHOULD BE MODIFIED.

*Procedure on Receipt of Representations.*

520. So far as concerns the procedure of the Minister of Health in dealing with a representation when he receives it, Mr. Dent saw no objection to retaining (a) the power of the Minister to decide, without causing a Local Inquiry to be made, that for special reasons a representation ought not to be entertained\*, and (b) the duty of the Minister, in all other cases, to cause a Local Inquiry to be made.†

*The Persons who should Hold Local Inquiries.*

521. If, however, a representation proceeded to the stage of a Local Inquiry, Mr. Dent and other witnesses urged that it should no longer be open to the Minister to cause the Inquiry to be held by an Engineering Inspector of the Department, either alone or in association with another officer of the Department, but that he should be required to remit the Inquiry to a special body constituted on the principle recommended in a Report‡ made to the Minister of Health in 1920 by the Consultative Council on Local Health Administration (of which the late Sir Ryland Adkins was Chairman).§ The recommendation of the Council was that in all important cases the Inquiry should be held by three persons, and that at least one of the three persons, who should be Chairman of the body, should be a person who was neither an officer nor an ex-officer of the Department, and was possessed of experience of acting in a judicial capacity.

522. Mr. Dent further suggested that the Chairman should be required to have the additional qualification of possessing administrative experience||, and he thought that a Chairman possessed of the requisite qualifications might in each instance be drawn from a panel of persons suitable to act as Chairman.¶

\* Dent, Q. 10,224-5 (III, 633).

† Dent, Q. 10,171 (III, 631).

‡ Ministry of Health, Consultative Council on Local Health Administration—Report on Procedure in regard to Proposals for the Extension of Boroughs, etc., with Notes by the Ministry as to certain of the Proposals, 1921 [Cmd. 1113].

§ Dent, M. 71 (III, 629), Q. 10,145 (III, 630); Taylor, Q. 9805 (III, 612); Vibart Dixon, Q. 10,780 (III, 658); Joy, Q. 17,688 (V, 1092); Holland, Q. 18,344 (V, 1121), Q. 18,350-1 (V, 1122).

|| Dent, Q. 10,145 (III, 630), Q. 10,150 (III, 630), Q. 10,161-7 (III, 631).

¶ Dent, Q. 10,154-5 (III, 631), Q. 10,181 (III, 631), Q. 10,191-3 (III, 632), Q. 10,296-300 (III, 635).

As regards the other members of the body, he suggested that either of them might be ex-officers, but should not be officers, of the Department\*, and he thought that one of the two should have particular knowledge of questions of public health, or, at any rate, experience in public health administration.†

As regards the relations of the two members to the Chairman, he suggested that they should sit as assessors, but should have power to vote as to the decision to be arrived at by the body, so that the decision would be the decision of the body as a whole.‡

523. On behalf of the Urban District Councils Association, Mr. Postlethwaite, who, as has already been stated, was opposed to the retention of Provisional Order procedure in any case, agreed that, if it were to be retained, Local Inquiries should be held by a body constituted on the lines suggested by Mr. Dent§ in all cases falling within the categories which he described as

(a) Contentious cases in which considerable areas and populations were involved||;

(b) Cases of an important character¶; and

(c) Cases of proposed extension of County Boroughs in which there was any serious opposition to the proposal.\*\*

524. Mr. Dent suggested that the body by whom Local Inquiries were held should be furnished by the Minister with secretarial and clerical assistance, and should be given instructions by him as to the scope of the Local Inquiry.†† He contemplated that the members of the body who held a Local Inquiry would require payment for their services.‡‡

*The Action of the Minister of Health on Receiving Reports  
of Local Inquiries.*

525 Further modifications of the existing Provisional Order procedure were suggested in the evidence of Mr. Dent and other witnesses on behalf of the County Councils Association in relation to the action of the Minister upon the report of a Local Inquiry received from a body constituted and acting in accordance with the preceding suggestions.

526. Mr. Dent suggested, in the first place, that the action of the Minister on the report should be what he called "ministerial".§§ He interpreted this expression as meaning, first, that the Minister should not have power to make a Provisional Order

\* Dent, Q. 10,186-8 (III, 632).

† Dent, Q. 10,182-5 (III, 631).

‡ Dent, Q. 10,150 (III, 630), Q. 10,248-53 (III, 634).

§ Postlethwaite, Q. 22,386-7 (VI, 1329), Q. 22,428 (VI, 1331).

|| Postlethwaite, M. 8 (VI, 1327).

¶ Postlethwaite, M. 11 (VI, 1328), Q. 22,388-92 (VI, 1330).

\*\* Postlethwaite, M. 16 (VI, 1328), Q. 22,452-5 (VI, 1333), Q. 22,470 (VI, 1334).

†† Dent, Q. 10,257-9 (III, 634).

‡‡ Dent, Q. 10,265-6 (III, 634).

§§ Dent, Q. 10,197-205 (III, 632).

to give effect to a representation against which the body who held the Local Inquiry had reported.† Secondly, he left open the question whether the Minister should have power to refuse to make a Provisional Order to give effect to a representation in favour of which the body who held the Local Inquiry had reported, or should not have this power.‡ Thirdly, he suggested that the Minister should have power to modify the recommendations made in favour of a representation by the body who held the Local Inquiry, before their recommendations were incorporated in a Provisional Order.§ Fourthly, he suggested that the report of the body who held the Local Inquiry, if it were favourable to the representation, should be laid before Parliament when any Provisional Order Confirmation Bill prepared in pursuance of the report was submitted to Parliament.||

527. Mr. Holland suggested, as an alternative, that the Minister should be bound to make a Provisional Order if the body who held the Local Inquiry were in favour of a representation, but should remain free to report to Parliament, as the responsible Minister, either in favour of or against the principles of the representation to which the Order gave effect.¶ He thought that any local investigation which the Minister found it necessary to cause to be made for the purpose of enabling him to frame his independent report need not be of a detailed character, because the report would probably deal with questions of principle only, 'rather on higher grounds,' as Mr. Holland said, "than mere details or the merits of the scheme."\*\*

528. Mr. Postlethwaite, on behalf of the Urban District Councils Association, agreed with Mr. Dent that the body who held the Local Inquiry should have power, if unanimous, to reject the representation before them either as a whole or in part††; but Mr. Pindar, on behalf of the Rural District Councils Association, thought that the power of rejection should be vested in a majority of the body.‡‡

*The Reference of Provisional Order Confirmation Bills to  
Joint Committees of Parliament.*

529. Mr. Dent suggested that any Provisional Order Confirmation Bill prepared in pursuance of the report of the body who held a Local Inquiry should be considered in Parliament by a Committee of each House, and that it should not be open to the

† Dent, Q. 10,209 (III, 632), Q. 10,213 (III, 632).

‡ Dent, Q. 10,208 (III, 632), Q. 10,212 (III, 632), Q. 10,215-20 (III, 633), Q. 10,226 (III, 633), Q. 10,231 (III, 633).

§ Dent, Q. 10,210 (III, 632), Q. 10,231 (III, 633).

¶ Dent, Q. 10,211 (III, 632), Q. 10,218-9 (III, 633).

¶ Holland, Q. 18,352-62 (V, 1122).

\*\* Holland, Q. 18,371-2 (V, 1122).

†† Postlethwaite, M. 18 (VI, 1328), Q. 22,428 (VI, 1331), Q. 22,475-92 (VI, 1335).

‡‡ Pindar, M. 12 (VI, 1363), Q. 23,131-9 (VI, 1364).

parties to agree to the reference of the Bill to a Joint Committee of both Houses.\*

530. Sir William Vibart Dixon said on this point that reference to a Committee of each House enabled a Bill to be re-examined and improved after it had been passed by the first House, and that, in the interval between the proceedings in the first House and the proceedings in the second House, difficulties could be removed by negotiation so that the Bill could be treated in the second House as an unopposed Bill.† He was not inclined to discriminate in this respect between Bills which were opposed and Bills which were unopposed throughout, but he agreed that a suitable procedure might be devised for sending Bills which were from the outset unopposed to a Joint Committee of both Houses.‡

531. The late Lord Long, on the other hand, saw no objection to the reference of a Bill of this character to a Joint Committee, in which he had great confidence.§

#### *The Award of Costs.*

532 On the question of the costs of proceedings by application for Provisional Orders, Mr. Dent suggested that any party who were put to unnecessary expense by another party to the proceedings should be awarded costs on that account.||

533. Mr. Holland, who suggested in his memorandum of evidence that the award of costs should follow the decision of Parliament on the proposal¶, agreed that it would be preferable to apply to the whole proceedings the existing power of Committees of Parliament, if unanimous, to award costs against any party by whom the party aggrieved have, in the opinion of the Committee, been put to expense unreasonably or vexatiously.\*\*

534. The witnesses on behalf of the Rural District Councils Association suggested that Town Councils should be required to pay the costs of Local Authorities who appeared in opposition to representations unless, in the opinion of the body who held the Local Inquiry, the opposition was unreasonable or vexatious. If the body who held the Local Inquiry found that any opposition was unreasonable or vexatious, the Local Authority concerned should be required to pay that part of the Town Council's costs which was attributable to their opposition.††

\* Dent, M. 74 (III, 629), Q. 10,301-3 (III, 636), Q. 10,322 (III, 636)

† Vibart Dixon, Q. 10,781 (III, 658), Q. 10,784-6 (III, 658), Q. 10,793-6 (III, 659)

‡ Vibart Dixon, Q. 10,799-809 (III, 659).

§ Long, Q. 8840 (II, 567).

|| Dent, M. 78 (III, 629), Q. 10,356-65 (III, 637).

¶ Holland, M. 35 (V, 1120).

\*\* Holland, Q. 18,435-42 (V, 1124).

†† Pindar, M. 16 (f) (VI, 1365), Q. 23,244-58 (VI, 1370); Williams, Q. 23,709-10 (VI, 1390).

### The Suggestions of Representatives of Town Councils.

#### GENERAL POSITION OF THESE WITNESSES.

535. The suggestions for the alteration of the Provisional Order procedure under section 54 of the Act of 1888 made by witnesses who represented Town Councils were based on a view of the procedure different from the view of the witnesses on behalf of the County Councils Association and those who supported their evidence.

The Association of Municipal Corporations had stated in their preliminary memorandum that in their opinion it had been shown by experience that the procedure prescribed by section 54 had proved unsatisfactory, and had suggested that we should consider the question of establishing a substituted tribunal which should have jurisdiction to deal with the matters relating to proposals for the constitution or extension of County Boroughs covered by the section.\*

536. The late Sir Robert Fox said, however, in his evidence, that while he recognized the objections which were felt to the present procedure, he had not been authorized by the Association to submit an alternative,† and we accordingly understood that the suggestions for the alteration of the procedure put forward by him and by other witnesses who represented Town Councils were put forward on their personal responsibility.

We further understood that in making these suggestions the principal object which these witnesses had in view was to secure some modification of the existing procedure which would restore the confidence of County Councils and District Councils in the methods by which proposals were dealt with, and would at the same time be not unacceptable to Town Councils.‡

#### SUGGESTIONS OF THE LATE SIR ROBERT FOX.

##### *As to Procedure on Opposed Proposals.*

537. The late Sir Robert Fox suggested that proposals for the constitution or extension of County Boroughs to which there was opposition should continue to be dealt with, up to and including the stage of Local Inquiry, under the existing law and procedure.§ The only modification in the procedure up to this point which he contemplated was that, in exceptional cases, a person of special legal or technical qualifications might be associated with the Engineering Inspector of the Department by whom the Local Inquiry was held.||

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\* See paragraph 20 of the Preliminary Memorandum of the Association of Municipal Corporations in Appendix LXII (III, 440).

† Fox, M. 58 (III, 524).

‡ Fox, M. 59 (III, 524).

§ Fox, Q. 7892 (III, 524), Q. 7918 (III, 525).

|| Fox, Q. 7926-8 (III, 526).



If the decision of the Minister were in favour of the proposal, his power to make a Provisional Order to give effect to it, and to introduce a Bill to confirm the Order, should be retained.\*

538 The alterations of the existing procedure which the late Sir Robert Fox suggested related to the consideration of the Provisional Order Confirmation Bill in Parliament.

He thought that the Bill as introduced by the Minister should be deemed to have passed all the Parliamentary stages up to the Committee stage; that at that stage it should stand referred to a Joint Committee of both Houses; and that if the Joint Committee reported that the Bill ought to be confirmed, the Report and Third Reading stages should be formal only.†

539. He added that he attached importance to the retention of the right of Town Councils to proceed by promoting Private Bills to give effect to their proposals as an alternative to making representations under the Provisional Order procedure.‡

*As to Procedure on Unopposed Proposals.*

540. The suggestions of the late Sir Robert Fox for dealing with proposals to which there was no opposition were identical with those which he made in regard to opposed proposals up to the point at which the Minister would have to decide whether to make an Order to give effect to the proposal. He suggested that if at this point the decision of the Minister were in favour of an unopposed proposal, an Order made by the Minister to give effect to the proposal should take effect forthwith, and should not require confirmation by Parliament.§

SUGGESTIONS OF SIR DAVID BROOKS AND MR. JARRATT.

541. An alternative procedure was suggested by Sir David Brooks, and generally supported by Mr. Jarratt, for application both to opposed and to unopposed proposals. In the first place, Sir David Brooks suggested that any Local Inquiry into a proposal should be held, not by an officer or officers of the Department, but by a body of three or five experienced men who should be appointed by Parliament, but should not be Members of Parliament themselves.¶ This body should be furnished by the Minister with secretarial and clerical assistance.¶

If the decision of the body who held the Local Inquiry were in favour of a proposal, an Order should be made accordingly, and the Minister should introduce a Bill to confirm the Order.

\* Fox, Q. 7892 (III, 524).

† Fox, Q. 7893-905 (III, 525). Cf., on the question of reference to a Joint Committee, Jarratt, Q. 15,737 (IV, 958), Q. 15,760 (IV, 959); Smith, Q. 16,888 (V, 1034).

‡ Fox, M. 59(3) (III, 524), Q. 7914 (III, 525), Q. 7931-4 (III, 526).

§ Fox, Q. 7892 (III, 524), Q. 7906 (III, 525).

¶ Brooks, Q. 14,359-60 (IV, 888), Q. 14,364 (IV, 888)

¶ Brooks, Q. 14,379-82 (IV, 890).

The Bill should be deemed to have passed all the Parliamentary stages up to and including the Committee stage.\*

Further, the Report and Third Reading stages in Parliament should be formal only, except that it should be open to either House to refer the proposal back to the body who held the Local Inquiry, in order that they might hear evidence or consider facts which had not been before them at the Local Inquiry.†

542. Sir David Brooks suggested that, if the foregoing procedure were adopted, it should no longer be open to Town Councils to make proposals for the constitution or extension of County Boroughs by Private Bill.‡

543. Mr. Jarratt said that in the main he agreed with the suggestions put forward by Sir David Brooks.§

He would assent to the exclusion of officers of the Department from the body who held the Local Inquiry if that course would secure the confidence of all parties concerned with the procedure.||

He added that, in his opinion, a Town Council should be required to submit a draft Order for the purpose of carrying out their proposal at the time when a representation in favour of the proposal was first made, since if this were not done it would frequently be necessary to refer a proposal back to the body who had held the Local Inquiry on questions arising in the course of the preparation of an Order to give effect to their decision.¶

544. Mr. Jarratt disagreed with the suggestion of Sir David Brooks that the existing option of Town Councils to submit their proposals by Private Bill should be removed.\*\*

#### SUGGESTIONS OF MR. SMITH.

545. A further alternative method of procedure was suggested by Mr. Smith, the Town Clerk of Luton.

He thought that the existing power of Town Councils to submit their proposals either by Private Bills or by representations under the Provisional Order procedure, and also the existing procedure of Local Inquiry into representations, should be retained.††

546. When the Minister came to a decision on the question whether to make an Order, Mr. Smith suggested that a decision to refuse to make an Order should be final‡‡; and that if an Order were made, and were not opposed, it should take effect forthwith, and should not require confirmation by Parliament.§§

\* Brooks, Q. 14,361-3 (IV, 888), Q. 14,365 (IV, 889).

† Brooks, Q. 14,362-3 (IV, 888), Q. 14,375-7 (IV, 889), Q. 14,385 (IV, 890).

‡ Brooks, Q. 14,377 (IV, 889).

§ Jarratt, Q. 15,739-41 (IV, 958), Q. 15,745 (IV, 958).

|| Jarratt, Q. 15,749 (IV, 958).

¶ Jarratt, Q. 15,761-2 (IV, 959), Q. 15,767-8 (IV, 959).

\*\* Jarratt, Q. 15,742-4 (IV, 958), Q. 15,751 (IV, 958).

†† Smith, M. 17 (V, 1028), Q. 16,816 (V, 1030), Q. 16,889-93 (V, 1034).

‡‡ Smith, Q. 16,924 (V, 1035).

§§ Smith, Q. 16,917 (V, 1035), Q. 16,919 (V, 1035)

547. If an Order were made and opposed, Mr. Smith suggested that the parties concerned with the proposal should be heard by a permanent tribunal who would act judicially.†

If after hearing the parties the tribunal refused to confirm the Order, their decision should be final§, and if they thought that the Order should be confirmed, they should have power to confirm it, and the proposal should then take effect without Parliamentary approval.|| The hearing by the permanent tribunal might, in his opinion, be held in the locality affected, but the tribunal should not be required to sit locally.¶

548. Mr. Smith further suggested that if the foregoing alterations of the existing law and procedure were not made, and the present Provisional Order procedure were retained, steps should be taken to secure that the Houses of Parliament, on the Report and Third Reading stages of a Provisional Order Confirmation Bill, should attach greater weight than was attached at present to the reports of Committees by whom the Bill had been considered, with the result that the Report and Third Reading stages should be formal stages.\*\*

He added that in his opinion every Order providing for the constitution of a County Borough should be submitted to Parliament in a separate Provisional Order Confirmation Bill.††

### **The Suggestions of the Counsel to the Speaker.**

549. Sir Ernest Moon, the Counsel to the Speaker, was so good as to lay before us suggestions for a scheme of procedure under which proposals for the constitution or extension of County Boroughs might be dealt with, which differed from the scheme suggested by the other witnesses with whom the subject was discussed.

#### **AS TO PROCEDURE ON OPPOSED PROPOSALS.**

550. He suggested that a Town Council should be required to proceed by Private Bill if, after notice had been given of their proposal, it was ascertained that the principle of the proposal would be opposed.\*

The form of the Private Bill and the method of dealing with it should, he suggested, depend upon whether a proposal for the constitution, or a proposal for the extension, of a County Borough was in question, and should, in each of these classes of case, be as follows.

† Smith, M. 13 (V, 1028), Q. 16,917 (V, 1035), Q. 16,923-4 (V, 1035).

§ Smith, Q. 16,917 (V, 1035).

|| Smith, M. 13 (V, 1028), Q. 16,823 (V, 1031).

¶ Smith, Q. 16,913-4 (V, 1035).

\*\* Smith, M. 18 (V, 1028), Q. 16,803-8 (V, 1030), Q. 16,829 (V, 1031), Q. 16,833 (V, 1031), Q. 16,839-41 (V, 1031), Q. 16,847-9 (V, 1032), Q. 16,898-9 (V, 1034), Q. 17,007-8 (V, 1041).

†† Smith, M. 18 (V, 1028), Q. 17,764-6 (V, 1028), Q. 16,769-80 (V, 1028).

\* Moon, M. 16-20 (II, 341), Q. 5333 (II, 348), Q. 5363 (II, 350).

*Opposed Proposals for the Constitution of County Boroughs.*

551. In any case in which the constitution of a County Borough was in question, and it was ascertained on notice given by the Town Council that their proposal would be opposed on the ground of its effect on County administration, the Private Bill which the Town Council would be required to promote, if they proceeded with their proposal, would consist of a preamble which would recite that it was desirable that the Borough should be constituted into a County Borough, followed by clauses empowering the Minister of Health, after causing a Local Inquiry to be held, to make an Order giving effect to the proposal.†

552. The Bill would be referred to Committees of Parliament, who would hear the parties on the question whether the proposal was desirable‡; and if the Bill were passed by Parliament, the scope of the Local Inquiry which the Minister was empowered by the Act to cause to be held would be limited to the investigation of the consequential provisions required by the constitution of the County Borough.§

553. An Order made by the Minister to give effect in this sense to a proposal for the constitution of a County Borough should be an Order of the same nature as a Special Order made under the Gas Regulation Act, 1920,|| and it should rest with the Minister to determine whether he would oppose the reference of any such Order to Committees of Parliament for further investigation.¶

*Opposed Proposals for the Extension of County Boroughs.*

554. In any case in which the extension of a County Borough was in question, and it was ascertained on notice given by the Town Council that their proposal would be opposed on the grounds of

(a) Its effect on County administration; and

(b) The wishes of the inhabitants of proposed added areas,

the Private Bill which the Town Council would be required to promote, if they proceeded with their proposal, would consist of a preamble which would recite that it was desirable that the boundaries of the County Borough should be extended as proposed, followed by clauses empowering the Minister of Health, after causing a Local Inquiry to be held, to make an Order giving effect to the proposal.\*

† Moon, M. 19 (II, 342), Q. 5333-5 (II, 348), Q. 5355-6 (II, 349).

‡ Moon, Q. 5344-6 (II, 349), Q. 5449-58 (II, 349).

§ Moon, Q. 5352 (II, 349), Q. 5397 (II, 352), Q. 5459-60 (II, 355).

|| As to the procedure on opposed Special Orders under the Gas Regulation Act, 1920, see Moon, M. 9-10 (II, 341), Q. 5200-4 (II, 343).

¶ Moon, M. 22 (II, 342), Q. 5335 (II, 349), Q. 5375-6 (II, 350).

\* Moon, M. 19-20 (II, 342).

555. The Bill would be referred to Committees of Parliament, who would hear the parties on the question whether the proposal was desirable†; and if the Bill were passed by Parliament, with or without alteration of the proposed added areas, the scope of the Local Inquiry which the Minister was empowered by the Act to cause to be held would be limited to the investigation of the questions whether

(a) The proposed added areas should be reduced on such grounds as

(i) That a District was an individual entity and not a parasitic growth,‡

(ii) That the inclusion of particular pieces of private property was undesirable,§

(iii) That minor adjustments of the proposed boundaries were desirable;||

(b) Other alterations of detail should be made in the proposals;¶

and to arranging the consequential provisions affecting the proposed added areas.\*\*

556. An Order made by the Minister to give effect in this sense to a proposal for the extension of a County Borough should be an Order of the same nature as a Special Order made under the Gas Regulation Act, 1920, and it should rest with the Minister to determine whether he would oppose the reference of any such Order to Committees of Parliament for further investigation.††

#### AS TO PROCEDURE ON UNOPPOSED PROPOSALS.

557. Sir Ernest Moon suggested that in any case in which it was ascertained on notice given by the Town Council that there would be no opposition to their proposal, the procedure for giving effect to the proposal should be similar to the procedure under the Water Undertakings (Modification of Charges) Act, 1921; that is, that the Minister should have power to make an Order to give effect to the proposal which should not require confirmation by Parliament.‡‡

† Moon, Q. 5344-6 (II, 349), Q. 5362 (II, 349), Q. 5370-2 (II, 350) Q. 5449-58 (II, 355).

‡ Moon, M. 16 (II, 341), Q. 5333 (II, 348), Q. 5372 (II, 350), Q. 5374-5 (II, 350), Q. 5394 (II, 351).

§ Moon, Q. 5328-30 (II, 348), Q. 5360-1 (II, 349), Q. 5388-93 (II, 351), Q. 5395 (II, 351).

|| Moon, Q. 5397 (II, 352).

¶ Moon, Q. 5351-2 (II, 349).

\*\* Moon, Q. 5369 (II, 350), Q. 5398 (II, 352).

†† Moon, M. 22 (II, 342), Q. 5335 (II, 349), Q. 5375-6 (II, 350)

‡‡ Moon, M. 6 (II, 341), Q. 5209-16 (II, 344).

**CHAPTER IX.—ON QUESTIONS OTHER THAN PROCEDURE  
AFFECTING BOTH THE CONSTITUTION AND THE  
EXTENSION OF COUNTY BOROUGHs.**

**SECTION 1.—WHAT ARE THE PROPER CONDITIONS  
OF THE ASSOCIATION OF URBAN AND RURAL  
AREAS UNDER COUNTY GOVERNMENT?**

**The Intentions of Parliament in 1888 as to the Association of  
Urban and Rural Areas.**

**Evidence on behalf of County Councils.**

CONTINUED ASSOCIATION WAS CONSIDERED NECESSARY.

558. On the question of the intentions of Parliament in passing the Local Government Act, 1888, we had the advantage of hearing evidence from the late Lord Long, who, as Parliamentary Secretary of the Local Government Board, had taken an active part in the preparation of the Local Government Bill of 1888, and in the conduct of the Bill through its various stages in the House of Commons.

Lord Long said that the object of the Bill was to adapt County government to modern conditions and requirements, and that in so doing it was obviously impossible to disregard the fact that the rural areas of the country were not sufficiently self-supporting—either financially or in personnel—to provide for all the local services required without the assistance of the urban communities. In these circumstances the Bill was advisedly so drafted as to re-establish County government upon a combined rural and urban basis. The provision originally made in the Bill for the constitution of County Boroughs was so narrowly limited that the Government felt that the claim of the Cities concerned to have absolute autonomy in local matters could well be admitted without impairing the economic stability of County government. Lord Long added that in his view the fact that rural areas could not stand alone was still more obvious to-day, when local administration was infinitely more comprehensive and much more costly.\*

**Evidence on behalf of Town Councils.**

CRITICISM OF THE PRINCIPLE OF ASSOCIATION.

559. One witness on behalf of Town Councils, the late Mr. Nicholson, Town Clerk of Lowestoft, devoted special attention to the interpretation of the intentions of the Government in 1888 in terms of finance. He reminded us that the Bill as introduced provided for the inclusion of all Boroughs except ten within the jurisdiction of the new County Authorities, and also provided for the transfer to the new County Authorities of

\* Long, M. 2-3 (III, 563).

certain functions of Government Departments specified in a Schedule. The provision ultimately made by the Act for the constitution of County Boroughs was due to the opposition of Town Councils to the Bill in its original form, and these Councils had also successfully resisted the attempt subsequently made by the Government to put into operation section 10 of the Act, which provided for the transfer of powers from Government Departments to County Councils.\*

560. Mr. Nicholson said that, in his view, the intention of the Government in 1888 had been to set up in nearly every County a Local Authority which he called a provincial Parliament, and that the leading characteristics of this Authority would have been, first, that by reason of its constitution it represented mainly the views of inhabitants of rural areas within the County, and, secondly, that its powers of local taxation enabled it to draw the greater part of its resources from the inhabitants of urban areas within the County, as well as to apply in accordance with the wishes of the majority of the members the revenues assigned to Local Authorities under the Act in lieu of the previous grants in aid.†

561. The Act of 1888 should accordingly, in Mr. Nicholson's opinion, be regarded primarily as a measure which altered the local taxation system of the country, the nature of the alteration being that it gave the representatives of the inhabitants of rural areas on County Councils an opportunity of relieving the owners of agricultural land at the expense of other ratepayers in the County. It was, therefore, incorrect to regard the provisions of the Act relating to the constitution or extension of County Boroughs as the most important part of it. It should be considered as a whole, and should be regarded as the Act which brought about the union of town and country in an unsound system of local government, unsound because the association of the inhabitants of rural and of urban areas was effected by compulsion on the plea that the strong ought to help the weak.‡

562. Mr. Nicholson reminded us that it would be fallacious to regard the ratepayers in towns as a whole as being strong by comparison with the ratepayers in the country, and that Mr. Ritchie himself, in the proceedings on the Bill, had recognized this fact.§ The form in which Mr. Nicholson expressed his own criticism of the financial basis of the Bill was that it marked the culmination for the time being of the efforts in Parliament of owners of agricultural land to throw their hereditary burdens upon other shoulders.||

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\* Nicholson, M. 24-5 (V, 1140).

† Nicholson, M. 26 (V, 1140).

‡ Nicholson, M. 16-20 (V, 1133).

§ Nicholson, M. 22 (V, 1133).

|| Nicholson, M. 9 (5) (V, 1132).

By the hereditary burdens on land he meant the whole of the burdens arising out of obligations to pay either rates or taxes which rested on landowners before the passage of the Act of 1888, and had rested upon them for a long period. Whatever the precise measure of this burden might be, it had been shown that, so far as rating was concerned, the demands made upon ratepayers in rural areas had been very much less than those made upon ratepayers in urban areas in the periods preceding 1888. It was, therefore, in Mr. Nicholson's opinion, inequitable to throw upon ratepayers in urban and in rural areas alike the demands to which the Act of 1888 gave rise, without having regard to the previous proportions of increase in the rates levied and the extent of the obligations resting upon the two types of areas respectively. While the old burdens which rested upon landowners had been insignificant in amount, the new burdens imposed by the Act of 1888 and subsequent legislation were for the most part laid upon industry under new conditions of rating, although a share of them was imposed upon landowners as well.\*

563. Further relief had been given to the landed interest by the Act of 1888 under the system of assigned revenues, which were more than enough to replace the pre-existing grants in aid. As regards the cost of the maintenance of main roads, which was the most important of the services affected, the balance of assigned revenues which remained in the hands of County Councils had to be applied in meeting the whole cost of the maintenance of main roads, which under the Act was thrown upon County Councils in place of the obligation to make a grant of one-quarter of the cost which had been previously rested upon them; but the result of the change was to give a larger measure of assistance to the ratepayers in rural areas than to the ratepayers in the urban areas.†

#### ASSOCIATION WAS REGARDED AS SUBJECT TO CHANGES IN CONDITIONS.

564. Generally, the witnesses on behalf of Town Councils said that, whatever had been the intentions of the Government of the day in introducing the Bill which became the Local Government Act, 1888, or the course of the debates on the Bill, the terms of the Act provided for changes in the local government system as well as for the establishment of County Councils and the constitution into County Boroughs of the Boroughs named in the Third Schedule. Parliament had recognized in so doing that regard must be had to the requirements not only of the present, but also of the future, and had reserved to itself the final authority in regard to the more important changes which it might be proposed to make in the system set up under the Act.‡

\* Nicholson, Q. 18,550-1 (V, 1134), Q. 18,557-86 (V, 1134), Q. 18,604-11 (V, 1135).

† Nicholson, Q. 18,612-32 (V, 1136).

‡ Brooks, Q. 14,433-4 (IV, 892).



565. As regards the respective position of County and County Borough Councils under the Act of 1888, they held that the basis of the Act was that County government should not operate over any areas within the jurisdiction of Local Authorities who were entitled, subject to the statutory conditions laid down by the Act itself, to become County Borough Councils. The jurisdictions of the two types of Authorities excluded each other; they were of equal status, and neither must be regarded as an exception to a general rule that the country at large should be under the jurisdiction of the other.\*

So far, then, as the intentions of Parliament were relevant to the questions at issue, they submitted that the terms of the Act of 1888 showed that the procedure provided under section 54 for the constitution and extension of County Boroughs was intended to enable the system of local government to be adapted to new circumstances such as changes in the distribution of the population and the development of the industry of the country.†

### **The Proper Financial Conditions of Continued Association.**

#### **Evidence on behalf of County Councils.**

##### **BURDENS SHOULD BE EQUALISED.**

566 On behalf of County Councils, Mr. Dent said that the figures which he submitted showed that the average resources of the Administrative Counties specially affected by the constitution or extension of County Boroughs had remained almost stationary during the last two decades. During that period there had, on the other hand, been a very large increase in the number, as exemplified by public health services, and in the cost, as exemplified by education, police, and maintenance of main roads, of the local government services entrusted to County Councils. It was accordingly apparent that the financial ability of County Councils was not keeping pace with their administrative obligations.‡

567. Now all County administration, in his view, was based on the idea, to a great extent, of the richer part paying for the poorer part.§ If, therefore, important urban areas were gradually segregated from the smaller urban and rural areas, it would become impossible for areas of the latter type to pay for local government services which they were expected to administer, not merely for the benefit of the inhabitants of their own areas, but sometimes, as with the maintenance of main roads, for the benefit of others also. He submitted that the local government of the country, concerned as it was with many

\* Jarratt, Q. 15,697 (IV, 956).

† Fox, Q. 7519 (III, 505); Jarratt, Q. 15,704-13 (IV, 956); Collins, Q. 15,987-92 (IV, 976).

‡ Dent, M. 31 (III, 466). For the figures, see Dent, Appendix LXIII, Table F (III, 487).

§ Dent, Q. 6991-2 (III, 463).

services of a national character, could not properly be carried on, and must inevitably suffer, if the urban and rural areas were gradually collected into separate water-tight compartments.¶ There must, in fact, as he said, "always be a leaven of urban areas to assist their poorer rural neighbours."¶

568. The nature of the assistance to be rendered by the urban to the rural areas was, in his view, not only financial, but by way of counsel and advice.\* He said that the whole conception of a County involved the idea that within the area, which was generally a large one, there should be a variety of population, one type in the poorer districts where the population was dense, and another in the thinly populated districts; and that the cost of the local government services required for the whole County should be spread over the whole. The broad justification for such a union was that, the larger the area of local government, the more likely it was that on the average the incidence of rating would be fair; and he preferred the principle that poorer districts, urban or rural, should remain united with richer districts within an Administrative County, to the alternative that local burdens should be equalised by means of Exchequer grants.†

569. In the opinion of the late Mr. Marks, it was essential to efficient County government that the rich areas should pay more in rates than the poor; and it was much fairer that rich Non-County Boroughs should contribute more than they received than that the Boroughs should be relieved and the rural areas left to bear alone the cost of services, such as the maintenance of main roads, which benefited the Boroughs as much as, or more than, the rest of the Administrative County.‡ He thought that there would always be somebody with a grievance that he paid more than he received; but if the principle which he put forward were not accepted as sound, the system of local government must be reduced to a parochial system (such as once applied to the maintenance of roads) under which nobody paid a penny for anything for which he did not get an actual equivalent.§ The right principle was to admit that in the interest of good local government various areas must be united in so close a partnership that no financial balance could be struck between the contributions and the benefits of particular towns and villages; and the strength of this argument had grown between 1888 and the present day, because communication was now more easy between different parts of a single Administrative County, and the inhabitants of the various parts depended upon each other in an increasing degree for economic and other purposes.\*\*

¶ Dent, Q. 7180-4 (III, 475).

¶ Dent, Q. 7161 (III, 474).

\* Dent, Q. 7162 (III, 475).

† Dent, Q. 7163-72 (III, 475), Q. 7185-93 (III, 475).

‡ Marks, M. 4 (IV, 814), M. 55 (V, 1011).

§ Marks, Q. 16,720 (V, 1017).

\*\* Marks, Q. 16,724-30 (V, 1017).

**Evidence on behalf of Town Councils.****DISTINCT COMMUNITIES SHOULD BEAR THEIR OWN BURDENS.**

570. On behalf of Town Councils, it was said, first, by Mr. Collins, that from the financial point of view the main considerations governing proposals for (a) the constitution or (b) the extension of County Boroughs were :—

(a) In regard to the constitution of a County Borough, whether the population of not less than 50,000 formed a community which had such a productive capacity that it could reasonably be said to depend upon its own resources. For this purpose the proper authorities must take into account both the question of the movement of population and the question of the character of the population which had settled together. Unless the town contained a fair proportion of producers and consumers, so that it was a well balanced community, it could not from the financial point of view fairly be made independent for purposes of local government.

(b) In regard to the extension of a County Borough, similar questions must be considered in application to any part of the original community which seemed to have spread beyond the legal boundaries of the town. Whether that part of the community contributed more in rates to the resources of the Local Authorities under whose jurisdiction it was than it cost the Local Authorities to satisfy its requirements for public services, or cost more than it contributed, it might so clearly form part of the original community that the Town Council could properly extend their jurisdiction over that section of the one town, whether the extension were financially advantageous or disadvantageous to the existing Borough ratepayers.\*

**CONTINUED ASSOCIATION SHOULD DEPEND UPON A PROPER****RELATION BETWEEN BURDENS AND BENEFITS.**

571. Secondly, it was submitted on behalf of Town Councils that the question whether a given community should be severed from a given Administrative County could not be equitably determined without regard to the relation existing at the date of any proposal for severance between the amounts raised in rates by the County Council in any County District affected, and the expenditure of the County Council on local government services in such Districts.

572. It was not suggested that any exact balance could be preserved between the amount of rates paid to the County Council and the amount spent by the County Council on services rendered in such Districts, or that the measure of benefit received by the inhabitants of such Districts from services rendered by the County

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\* Collins, Q. 15,973-92 (IV, 975).

Council was to be inferred solely from the amount spent by the County Council within particular boundaries. But it was submitted that when the discrepancy between contribution in rates and cost of services rendered in the District reached a certain point, the Local Authority of a County District which had hitherto for County purposes been in association with the Administrative County were entitled to represent to the proper authorities that the whole balance of partnership had so far altered that the ratepayers in the District now had a grievance for which they were entitled to seek their statutory remedy.\*

573. As an example of undue disparity, Mr. Jarratt, the Town Clerk of Southport, mentioned that when Southport was constituted into a County Borough in 1905, it was calculated that the excess of contribution by the Borough ratepayers to County funds over the value of the services rendered by the County Council in the Borough was £4,000 a year; and that when the Urban District of Birkdale was included in the boundaries of the County Borough in 1911, the District ratepayers had been paying the County Council nearly £3,000 a year more than was spent by the County Council in the District up to the time of its inclusion in the County Borough.†

The question of the special responsibility of County Councils for main roads running into coastal towns such as Southport is separately dealt with below (paragraphs 695 to 713), and was recognized by Mr. Jarratt as forming an important element in any calculation of the measure of benefit received by the inhabitants of areas of this special type while they remained within the system of County government.‡

CONTINUED ASSOCIATION SHOULD DEPEND UPON THE EQUITABLE DISTRIBUTION OF THE PRODUCE OF INCREASED RATEABLE VALUE.

574. Thirdly, it was said on behalf of Town Councils that the circumstances of each proposal for the constitution or extension of a County Borough must be separately considered by the proper authorities for the purpose of determining whether a County District within which certain circumstances had caused the rateable value of the area to increase could from the financial point of view properly be retained in the Administrative County or not.

575. Mr. Collins did not admit that the statutory power of Town Councils to initiate proposals gave them any undue preference in safeguarding their financial position. As regards the constitution of County Boroughs, the question before the Council of a Non-County Borough who might desire the

\* Jarratt, M. 27 (IV, 949), Q. 15,574-85 (IV, 947).

† Jarratt, M. 11 (IV, 948), M. 26 (IV, 949).

‡ Jarratt, Q. 15,580-3 (IV, 947).

Borough to be constituted into a County Borough was whether their liability to make a payment, under the Local Government (Adjustments) Act, 1913, to the County Council in respect of any increase of burden falling upon the County ratepayers as the result of the severance would be preferable to the existing liability of the Borough ratepayers to pay a larger sum in rates for County purposes than was spent by the County Council on the provision of services within the Borough. In general, he thought that the view of the Councils of Non-County Boroughs was that their objection to the terms of the Act of 1913 had less weight than their objection to providing the County Council with revenue which was spent in other areas, while the services rendered within the Non-County Boroughs continued to be inadequate. It was, in his opinion, the inadequacy of County administration to meet the needs of the inhabitants of the larger towns within the Administrative Counties which was the principal ground of proposals by the Councils of Non-County Boroughs for the constitution of the Boroughs into County Boroughs.\*

576. As regards the extension of the boundaries of County Boroughs, Mr. Collins expressed the personal view that the right to initiate proposals for this purpose vested in County Borough Councils gave them no unfair advantage, except on one supposition. This supposition was that whatever circumstances within the area of an Administrative County gave rise to an increase of rateable value conferred upon the County Council concerned a right to receive in rates from the ratepayers of the County District the produce of that increased rateable value. If that were so, the County Council were entitled to expect either to retain the produce, or, if the District or any part of it were severed from the Administrative County, to receive a sum under the Act of 1913 which would recoup them for the produce of the increased rateable value of which they had been deprived.†

His own view was that there was no abstract right in County Councils to the produce of increased rateable value arising within the Administrative County, but that as each proposal for the extension of the boundaries of a County Borough came forward, the proper authorities must examine the circumstances which had caused the rateable value to increase.‡

577. He did not suggest that the Council of a County District which owed its increased rateable value to the activities of its own inhabitants should always propose that the District should be severed from the Administrative County; but he did not think that it would be found that the increase in rateable value in the District was due to County enterprise as distinct from local enterprise. It did not, therefore, appear to him that the rights

\* Collins, Q. 15,901 (IV, 971).

† Collins, Q. 15,902-3 (IV, 971)

‡ Collins, Q. 15,910 (IV, 971).

conferred upon Town Councils by the Act of 1888 to initiate proposals for the constitution or extension of County Boroughs were detrimental to County Councils in the sense that they gave one type of Authority an initial advantage over the other. §

CONTINUED ASSOCIATION SHOULD DEPEND UPON EQUITABLE  
VALUATION.

578. One witness, Dr. Mitchell Winter, expressed the opinion that the ratepayers in the urban area within the Administrative County with which he was concerned not only paid an unduly large contribution in rates to the County Council, but were assessed for the purpose of that contribution on a higher scale than the scale which applied to the calculation of their rates for other purposes.

The example given was that the Non-County Borough of Torquay, and other urban areas in a particular Union in Devonshire, were assessed on the County Rate basis at sums which were approximately three per cent. higher than the assessments on the Poor Rate basis, while the assessments on rural areas in the same Union showed that the County Rate basis was approximately five per cent. lower in those areas than the basis taken for the Poor Rate. Further, the ratepayers in urban areas were required to pay an unduly high rate in the pound for County purposes, because in levying the County Rate no account was taken of empty properties.\*

**The Proper Administrative Conditions of Continued Association.**

**Evidence on behalf of County Councils.**

COUNTY GOVERNMENT IS ADEQUATE TO THE REQUIREMENTS  
OF URBAN AREAS.

579. Witnesses on behalf of County Councils emphasized the possibility of adapting County government to meet any requirement of the inhabitants of urban areas, in order to refute an assumption which they thought underlay certain passages in representations made by Town Councils, and in the preliminary memorandum submitted to us by the Association of Municipal Corporations. This assumption was that in order to secure that only one Local Authority should have jurisdiction over a given area, as is the position with the local government (excluding Poor Law) services within a County Borough, it must be presumed to be desirable that County Boroughs should be constituted or extended without regard to the existing system of County government.

580. The passages to which this criticism was directed by Mr. (now Sir) William Vibart Dixon, late Deputy Clerk of the West Riding of Yorkshire County Council, were, first, a passage in the

§ Collins, Q. 15,904-10 (IV, 971).

\* Winter, M. 36-7 (VI, 1235), Q. 20,696-703 (VI, 1235).

representations made on behalf of the Leeds and the Bradford City Councils in 1920, in each of which the Council submitted generally that unification of the whole area, that is, the existing City and the proposed added areas, would enable it to be administered in a more efficient, economical and uniform manner, and would be in the best interests of sound and enterprising government; and that only by the extension of competent urban areas so as to form one large unit for urban self-government could the present-day requirements in matters of public health, sanitation, sewerage, transport, public utility services, higher and elementary education, and the like, be adequately met. §

Secondly, Sir William criticized a passage in paragraph 18 of the preliminary memorandum of the Association of Municipal Corporations, which says that in order to secure efficiency and economy in local government it is necessary to simplify the administration whenever possible, to reduce by means of amalgamations the number of Local Authorities each having their own separate staff and services, and whenever practicable to arrange that only one Local Authority should have jurisdiction over a given area. ||

581. Sir William said, in the first place, that he demurred to the assumption that the end suggested in the representations of the two City Councils could not be secured by any means other than the formation of one large unit of local government. This suggestion he regarded as requiring proof in the same way as all other statements in the representations.\* In the second place, he regarded the words "whenever practicable", in the preliminary memorandum of the Association of Municipal Corporations, as an attempt to lay down the doctrine that whenever a unified form of local government could be secured, it ought to be secured in place of the system which prevails in Administrative Counties. It was his view that if it were admitted, first of all, that the unified form of government was a better and a higher form than the alternative, not only in a concentrated Borough but universally, it must follow that this form of government should be applied wherever possible, and therefore that the jurisdiction of a County Borough Council should cover every part of the present Administrative County to which it was possible to apply it. But the Act of 1888 required that Parliament should be satisfied that changes having this effect were not merely possible, but desirable. †

582. The following passage in Sir William's evidence indicates his view of the bearing of these criticisms upon the existing law and procedure‡ :—

"9086. (*Mr. Pritchard*): Let us see how near we can get. You agree that in some cases by means of amalgamations you can reduce the number

§ Vibart Dixon, M. 4 (III, 579).

|| See paragraph 18 of the Preliminary Memorandum of the Association of Municipal Corporations in Appendix LXII (III, 440).

\* Vibart Dixon, M. 5-6 (III, 579), Q. 9073-9 (III, 580).

† Vibart Dixon. Q. 9080-5 (III, 581).

of Local Authorities and thereby effect efficiency and economy?—It must be so, but when you come to the application of that we might differ very largely.

"9087. I want to see how near we can get? You agree in some cases that is so?—Yes.

"9088. You do it yourself?—Yes, undoubtedly; I do not think anybody would say to the contrary.

"9089. The question is to what extent it shall be applied?—Clearly. That is the very thing which has raised the controversy now; it is the vast extent to which these things have gone lately."

#### COUNTY GOVERNMENT ENCOURAGES LOCAL INTEREST.

583. The view of County Councils on this question was summarized in paragraph 34 of the memorandum of evidence submitted by Mr. Dent as follows§ :—

"The County inhabitant may be, and indeed frequently is, a member both of the County Council and of a minor Authority within the County. He has thus the opportunity of taking part in the government of his County as a whole and also of that particular district in which he happens to reside. As soon, however, as that district becomes absorbed and takes its place merely as a ward in a large County Borough, its local representation is confined to the election of one or two members to a City Council containing perhaps a hundred or even more members. It is confidently asserted that the dual system is the more likely to foster local pride and patriotism and consequently to produce efficient local government, and does in fact do so."

584. Mr. Dent said that the existence within the Administrative County of Parish Councils with limited powers, and of District Councils with considerable and important powers within their own areas, combined with the existence of the County Council exercising jurisdiction in other matters over the administration of the County as a whole, was the best system which could be applied, outside densely populated areas, in order to encourage the interest of as many persons as possible in the local government of their County and of the various areas within it.\* The tendency of legislative and administrative development in the last generation had been to entrust certain services which did not entail direct relations between Local Authorities and particular inhabitants to County Councils, who, as a rule, had jurisdiction over a large area; and at the same time to assign to the other Authorities within the Administrative County a responsibility, either complete or shared with the County Council, for services which had to be administered in relation to particular inhabitants of the several County Districts. This system had a marked advantage in giving the ordinary citizen a personal interest in direct local administration, while securing other advantages in the administration over a larger area of services for which a variety of experience and substantial resources were required.†

§ Dent, M. 34 (III, 466).

\* Dent, Q. 6905-7 (III, 459).

† Dent, Q. 7069-71 (III, 470).



585. In Mr. Dent's view, the essence of local government was the representative system, and as many persons as possible should be associated, as members of Local Authorities, in the discharge of the duties of local government. The County system was therefore inherently preferable to the County Borough system in so far as it afforded more numerous and wider opportunities of individual local service. When a County District was added to a County Borough, the number of persons who were enabled to take part, as members, in the local government of the District was necessarily reduced, because the District received representation on the County Borough Council equivalent to its previous representation on the County Council; but the District Council ceased to exist, and all their functions were discharged by the County Borough Council. It was true that in some Counties the representatives of certain County Districts found it difficult to attend the County centre on the business of the County Council, but they would have no difficulty in attending their local Councils, who as a rule met in the evening.\*

586. Although it might be the fact that statistics showed that fewer ratepayers voted in County Council elections than in municipal elections, at any rate in certain parts of the country, Mr. Dent took any such figures to indicate that the County inhabitants were generally satisfied with the work of their representatives; and he further suggested that extraneous political issues were involved in municipal elections, but had no effect in the elections of County Councils.†

587. Mr. Mellish laid stress on the further point that in his view the inclusion of a rural parish in a County Borough resulted in a very large measure of disfranchisement of the inhabitants; that is to say, that the weight which their wishes could carry in the government of the particular part of the County Borough in which they were most interested would be less than it had hitherto been in County government, which gave them not only a fair share of representation on the County Council, but also a Parish Council or Meeting of their own, and a District Council who included their own representative. He thought that even though the influence of a particular parish on County affairs might be small, there was value in the power which both the Parish Council and the Rural District Council possessed to make representations in the name of the parish to the County Council if they so desired.‡

### **Evidence on behalf of Town Councils.**

#### **CONTINUED ASSOCIATION SHOULD BE SUBJECT TO CHANGES IN CONDITIONS.**

588. The witnesses on behalf of Town Councils agreed that the form of County government contemplated when the Bill of

\* Dent, Q. 7230-44 (III, 477), Q. 7248-51 (III, 478).

† Dent, Q. 7252-9 (III, 478).

‡ Mellish, M. 21 (III, 599), Q. 8730-44 (III, 561).

1888 was under discussion, and normally established under the Act, was that the area of the Administrative County should consist partly of urban and partly of rural areas; but in their view the continued association of areas of each kind within the system of County government must be subject to the provision which had been made by the Act of 1888 itself for the alteration of the system if the statutory conditions regulating alterations were fulfilled. They did not admit that it was essential to the continuance of County government that urban and rural areas should be associated under the jurisdiction of County Councils. The facts must be dealt with as they were, in accordance with the statutory provisions for alterations in the system as it stood when the Act of 1888 came into operation.\*

CONTINUED ASSOCIATION SHOULD BE SUBJECT TO THE CO-OPERATION OF COUNTY COUNCILS WITH COUNCILS OF COUNTY DISTRICTS.

589. The late Mr. Nicholson said on this question that his analysis of the Act of 1888 was not intended to form the foundation of a general objection to the association of urban and rural areas under County government. The conclusions which he drew from the facts were that the geography of the country made County government inevitable, and also that County government was a good system; but the latter conclusion was subject to the proviso that urban and rural areas must be united under County government in a partnership on equal terms.†

590. He thought that the kind of system of County government to be aimed at was one in which there would be no wish on the part of the inhabitants of urban areas that such areas should be severed from the Administrative County, and the lines on which attempts should be made to achieve this end seemed to him to be indicated by such equitable arrangements as had been arrived at between the County Council of Bedfordshire and the Councils of the Non-County Boroughs in the Administrative County as regards payment of the cost of the maintenance of County roads; and the arrangements which had been arrived at between the County Council of East Suffolk and the Lowestoft Town Council as regards higher education in the Borough.‡

The first of the foregoing arrangements is described later in this Report (*see* paragraphs 916 to 922). Mr. Nicholson gave the following particulars in regard to the administration of higher education in Lowestoft§:—

“It was only after difficult and prolonged negotiation that in 1907 an agreement was reached on the basis that higher education should be administered by a Committee appointed by the Town Council, consisting

\* Fox, Q. 7330 (III, 491), Q. 7517-8 (III, 505); Brooks, Q. 14,471-7 (IV, 894); Jarratt, Q. 15,703-13 (IV, 956).

† Nicholson, Q. 18,633-40 (V, 1136).

‡ Nicholson, Q. 18,641-56 (V, 1137).

§ Nicholson, M. 56 (V, 1150).

of 18 members, six of whom were nominated by the County Council, and that the County Council should pay to the Town Council a fair proportion of the 'whiskey money,' estimated according to the population and rateable value. The agreement has been revised from time to time, and had to be recast about a year ago owing to a change in the method of paying the Government grant. The scheme has worked fairly well, the Borough manages and pays for its own higher education and the motive of profit-making is eliminated, and I have little fault to find with it as a compromise under the present system of County government."

591. He regarded arrangements of the foregoing type as a model for the administration of services by County Councils. The association in County government of urban and rural areas was in his view fair and reasonable, provided that it was not enforced by compulsion. This objection to compulsion was the basis of his criticism of the Act of 1888, and he thought that the Act could only be made equitable in administration if everything possible were done to secure the co-operation of Local Authorities in urban areas with County Councils in dealing with services which were of common interest to the ratepayers in areas of all types. In practice, if it were assumed that the Act of 1888 could not be repealed, his suggestion was that the necessary divergence between the interests of the inhabitants of urban and of rural areas should so far as possible be removed by measures of accommodation between the County Councils and the Councils of Non-County Boroughs in particular Administrative Counties. In so far as a County Council succeeded in establishing a system of County government which was fairly satisfactory to all the Authorities concerned, his objections to the administration of the Act of 1888 were removed, though his objection to the principle on which the Act was based was not removed.\*

#### CONTINUED ASSOCIATION SHOULD BE SUBJECT TO THE ADEQUATE PROVISION OF SERVICES BY COUNTY COUNCILS.

592. Mr. Collins said that in his opinion the reasons for which proposals were made for the constitution or extension of County Boroughs were primarily administrative, and that the most important of the reasons of this nature was that the services rendered within the Borough or the proposed added area by the County Council were not adequate. That part of his evidence which related to the question of disparity between the amount raised in rates by the County Council in a given District, and the expenditure of the County Council on services provided within the District, was subject to the qualification that it would be possible for a County Council to provide services which the inhabitants of the Borough or the proposed added area would agree were adequate, although the County Council still raised more in rates from the ratepayers of the District than they spent on services provided within the District. The measure.

\* Nicholson, Q. 18,661-6 (V, 1138), Q. 18,669-71 (V, 1138), Q. 18,677-700 (V, 1138).

of benefit received by the inhabitants of the District was therefore, in the first place, not wholly a question of finance.\*

593. In the second place, the measure of benefit could not be accurately calculated so long as it was based solely upon the provision of services within the area of the Borough or within the proposed added area, for it was not disputed that the inhabitants of a County District derived benefit from services which were provided by the County Council in parts of the Administrative County outside the District boundaries. For example, the proper maintenance of main roads by the County Council was to some extent beneficial to all the inhabitants of the Administrative County; and the proper provision of secondary education would be likely to benefit the inhabitants of any urban area into which the pupils who had been educated in outlying schools came in order to find employment.†

## **SECTION 2.—ARE THE PROPER CONDITIONS SECURED BY THE OPERATION OF THE EXISTING LAW AND PROCEDURE?**

### **Evidence on behalf of County Councils.**

#### **The Uncertainty of the Present Position of County Government.**

594. It was submitted, on behalf of County Councils, by Mr. Dent, that the provisions of the existing law under which proposals for the constitution or extension of County Boroughs might be made at any time had a disturbing influence on the administration of local government services by County Councils, whether or not all the proposals expected were in fact made, and whatever the measure of their success when made. He thought that members of County Councils would be reluctant to continue to serve if they were left to feel that any schemes which were put in hand at a given moment were likely to require substantial revision within a short period owing to the effect of the operation of the law. Further, he foresaw that County Councils must lose little by little much of their incentive to continue, at the expense of the County ratepayers generally, a forward and progressive policy. County government would then become a system under which the Authorities lived from hand to mouth, and necessary schemes and improvements would be postponed or dealt with on a temporary basis pending some decision as to the principles which should in future govern any alteration of the area of an Administrative County.‡

595. In support of this argument he pointed, in the first place, to the enlarged scope of the more controversial proposals made by County Borough Councils in recent years for the extension of their boundaries, and said that the uncertainty whether any such

\* Collins, Q. 15,901 (IV, 971).

† Collins, Q. 15,941-7 (IV, 974).

‡ Dent, M. 32 (III, 466).

proposal was likely to be made at any given moment had a detrimental effect on the administration, not only of the County Councils, but also of the Authorities in the County Districts which might be concerned.\*

In the second place, Parliament had, since 1888, laid new and extended duties upon County Councils, and their organization had developed accordingly. But the effect of successive proposals for alteration of area, and of the prospect of more, was that County Councils could not look ahead, as they should in the interests of efficiency and economy, either in framing schemes for the administration of services, or in settling the numbers and grades of the staff which was required to carry out the administration. In Mr. Dent's opinion this was a matter which could not be covered by any revision of the terms of financial adjustments, or even by alteration in the existing law governing financial adjustments. The services particularly affected were, he thought, the maintenance of main roads and the organization of higher education.†

#### EFFECTS OF THIS UNCERTAINTY.

##### *Upon Policy.*

596. Mr. Taylor explained that in practice the uncertainty of the present position affected the policy of County Councils in two ways. First, it prevented Councils from providing services in particular areas where they would otherwise think it right to provide them, because if it were the feeling of a Council that a particular area was about to become, or to be added to, a County Borough, they would hesitate about making provision in that area with the prospect of losing it before them. Secondly, he thought that Councils made some provision in a particular area, which they would not otherwise have made at that time, in order to prevent the feeling of the inhabitants from becoming more favourable to the application of County Borough government to the area.‡

597. He was in a position to say from his experience as Chairman of the Parliamentary Committee of the Lancashire County Council that occurrences of this kind were quite common, since references were made to him, when a question of the provision of services in a particular area arose, in order that he might advise the other Committee of the Council concerned from what might be called the political point of view, as distinct from the merits of the case, which it was for the other Committee to consider. He thought that this practice led to confusion in County administration, because the regular course of the proceedings was disturbed by an outside influence, namely

\* Dent, Q. 6771-4 (III, 454).

† Dent, Q. 6931-73 (III, 461), Q. 7020-7 (III, 464).

‡ Taylor, Q. 13,541-4 (IV, 839).

the possible effect upon the County as a whole of prospective alterations in its area.\*

*Upon Co-operation with County Borough Councils.*

598. On this point we cannot do better than quote certain questions put to Mr. (now Sir) Percy Jackson, Chairman of the Education Committee of the West Riding of Yorkshire County Council, and his replies, as to the prospect of securing from the County Council the favourable consideration of further proposals for joint arrangements for certain purposes of higher education between the County Council and County Borough Councils in the West Riding† :—

" 11,124. (*Chairman*): Sub-section (2) of section 6 of the Education Act, 1921, says: 'The Board of Education may, on the application of two or more Councils having powers under this Act, by scheme provide for the establishment and (if thought fit) the incorporation of a Federation for such purposes of any such arrangements as aforesaid as may be specified in the scheme as being purposes relating to matters of common interest concerning education.' Would it not be possible to enter into a scheme of that kind with the other County Boroughs?—Yes. We have such a scheme with Barnsley and Huddersfield, and, if this question of Borough extension was settled to our satisfaction and to the satisfaction of the County Boroughs, and this thing could be written off the map altogether—

" 11,125. What thing?—This quarrel as to stealing one another's land. Take the West Riding: supposing that Leeds, Bradford, Rotherham, and Sheffield, and the County Council come to an understanding, and the trouble with regard to these extensions ceases to exist, there is no reason at all why we should not come to an agreement on the lines of the provision which you have read out on a great many educational questions; but we cannot do it while these extensions are in the air. We are too much afraid. The County Borough Councils immediately say: 'Look! We have to provide for these people.' So we dare not enter into partnership schemes. If we can get these questions settled we will do these things in the West Riding.

" 11,126. You mean that it is the uncertainty as to the future which prevents you from coming to a settlement with regard to educational questions?—Yes.

" 11,127. And that, if that uncertainty was removed, then you would come to a permanent arrangement with the County Boroughs?—Yes, we should come to an agreement with Leeds with regard to more than one secondary school, probably three secondary schools, right away, if this extension were not in the air. They want more accommodation on our boundaries, and we will be glad to work with them, but we will not do it if at any given moment they are going to take away our population.

" 11,128. (*Sir Lewis Beard*): You say this quarrel has poisoned the atmosphere?—Yes.

" 11,129. And if the quarrel can be appeased to the reasonable satisfaction of both parties, it will be favourable to this kind of agreement being arrived at?—Yes, it will make section 6 a reality.

" 11,130. You spoke of these arrangements, if made, as being possibly the starting point for further extensions? You think that if arrangements are made for mutual services they may be used as a first step towards extension, and you regard that as a serious matter?—As the air is poisoned at present, I do. I can give concrete instances, if required."

\* Taylor, Q. 13,545-7 (IV, 839), Q. 13,550-1 (IV, 840).

† Jackson, Q. 11,124-30 (III, 684).

*Upon Staff and Expenses.*

599. A further practical consequence of the uncertain position of County administration, to which Mr. Dent drew attention, was that a considerable part of the time of the officers of County Councils, whose energies should be devoted to carrying out and perfecting the administration of their areas, was spent in conducting the opposition of their Councils to proposals for the constitution or extension of County Boroughs, and that heavy expenses were necessarily incurred by County Councils as a consequence of such proposals.\*

**Evidence on behalf of Urban and Rural District Councils.****Effects of the Uncertainty of the Present Position upon Policy.**

600. Witnesses on behalf of Urban District Councils and Rural District Councils, who viewed this question as it bore upon the policy of Authorities whose areas might be included within the boundaries of County Boroughs, suggested that the effect of uncertainty was bound to be detrimental to the administration of such Authorities.†

The effect might be to incline the Authorities to become either profligate or parsimonious in expenditure.‡ Neither effect had been observed in practice; and while one witness was of opinion that profligacy, another thought that parsimony, was the more likely of the two evils to arise.§

**Evidence on behalf of County Councils.****The Operation of the Existing Law and Procedure is Prejudicial to County Government.**

## FINANCIAL EFFECTS OF THIS OPERATION.

601. It was submitted on behalf of County Councils that the financial effects of the operation of the existing law and procedure were prejudicial to County government, because they were convinced that the present provisions for financial adjustments following upon alterations of area were inequitable in their bearing upon County ratepayers.

*Loss of Potential Increase in Rateable Values.*

602. Mr. Dent said in the first place that County Councils felt that the County Districts which were most likely to be severed wholly or in part from the Administrative County were, with rare exceptions, also the Districts in which rateable values were most likely to increase, and that the effect of

\* Dent, M. 33 (III, 466), Q. 7223-6 (III, 477).

† Thomas, Q. 22,890-1 (VI, 1353), Q. 22,903 (VI, 1353); Pindar, Q. 23,228-31 (VI, 1369).

‡ Thomas, Q. 22,887-9 (VI, 1353), Q. 22,892-4 (VI, 1353).

§ Thomas, Q. 22,895-900 (VI, 1353); Pindar, Q. 23,232-3 (VI, 1369), Q. 23,238-42 (VI, 1369).

alterations of area already made was that during a period in which the cost of local government services administered by County Councils had continuously increased, County Councils had not received the produce of a normal increase in rateable values to assist them in meeting the increased cost of services. The rateable values in Administrative Counties generally had remained practically stationary, while the burdens on County ratepayers had enormously increased.\*

*Loss of Rateable Contributions.*

603. Secondly, while admitting that cases might occur, and had occasionally occurred, in which it was advantageous to a County Council to cease to be responsible for the administration of a County District where the rateable value was low and the requirements for local government services expensive, Mr. Dent said that in his view such instances must be considered as exceptional, and that the normal effect upon County Councils of alterations in the areas of Administrative Counties was that the obligation to provide services of which they were relieved did not enable them to show any substantial reduction in the costs of County administration.†

604. The instances in which any such relief was obtained did not confer any financial advantage upon County Councils which could be set against the financial loss inflicted upon them in instances in which the areas affected were areas outside a town where persons who made their living by carrying on business in the town resided. The demand upon County Councils from such areas for local government services was not sufficient to absorb an amount equivalent to the amount of the rates derived by the County Council from the area on the basis of its high rateable value, and, accordingly, if such an area became, or were added to, a County Borough, the result of the transaction was to reduce the financial resources of the County Council, subject to any compensation which they might receive under the Act of 1913, without enabling them to reduce substantially their expenditure on services provided to meet the demands of the inhabitants of the Administrative County as a whole.‡

*Inadequacy of Financial Adjustments.*

605. Mr. Dent said that under this head he wished expressly to safeguard County Councils against any assumption that they accepted as valid the argument of representatives of Town Councils that whatever financial detriment was sustained by County Councils owing to alterations of the areas of Administrative Counties was amply provided for under the terms of the

\* Dent, Q. 6820 (III, 456), Q. 6823 (III, 457), Q. 6932 (III, 461), Q. 6935-8 (III, 461).

† Dent, Q. 6860-78 (III, 458), Q. 6926-8 (III, 460).

‡ Dent, Q. 6980-4 (III, 463), Q. 6988-93 (III, 463); Holland, M. 34 (V 1120). O. 18.427-31 (V, 1124).



Local Government (Adjustments) Act, 1913.\* In this matter, however, County Councils relied mainly upon the evidence given by Mr. Keen, which is separately summarized in Chapter X of this Report.

#### SECONDARY IMPORTANCE OF FINANCIAL EFFECTS.

606. The witnesses on behalf of County Councils attached importance to making it clear that, whatever alterations were introduced into the law and procedure relating to financial adjustments between Local Authorities consequent upon alterations of area, they would not regard such financial provision as disposing of the principal arguments which they laid before us. Mr. Dent said that while the difficulties which, in the opinion of County Councils, arose from alterations in the areas of Administrative Counties could, in so far as they were financial, be met to a great extent by an amendment of the Act of 1913, County Councils did not regard the issue as in the main a question of finance at all.† What they regarded as more important was the dislocation of local government services administered by County Councils which resulted from the operation of the existing law and procedure. In their view the efficiency of County government could not be maintained if the organization established by County Councils were destroyed by alterations of area, no matter what financial adjustments were made as the result of particular alterations.‡

607. The effect of the Act of 1913 was, in the view of County Councils, merely that they received some payment in respect of increase of burden instead of none, and were by that amount better off than they had been before 1913§ ; but supposing that the payments which they received under the Act covered, or more than covered, the liabilities due to increase of burden, they would still object to the operation of the existing law and procedure on the grounds previously indicated, because they considered that, if their operation continued unchecked, County government as a whole would be broken up, and County Councils would no longer be able to maintain their position as Authorities of primary importance in the local government system.||

608. Mr. Taylor, at the conclusion of a discussion of possible methods of relieving the burden upon County ratepayers in respect of the cost of the maintenance of main roads by means of Exchequer grants or otherwise, said that any arrangement of this kind would remove some of the financial difficulties attendant upon alterations in the area of Administrative Counties, but that in his judgment the issue was in the first place one of the efficiency of local government, and questions

\* Dent, M. 49-50 (III, 537), Q. 8246-56 (III, 546).

† Dent, Q. 6843 (III, 457), Q. 7205-8 (III, 476).

‡ Dent, Q. 6823 (III, 457), Q. 7200-1 (III, 476).

§ Dent, Q. 7212-3 (III, 476).

|| Dent, Q. 6843-6 (III, 457), Q. 6896-7 (III, 459).

relating to financial adjustments between Local Authorities should not be taken to determine the merits of proposals for alterations of area, or as being more than a subordinate question compared with that of the good government of the country as a whole.\*

#### ADMINISTRATIVE EFFECTS OF THIS OPERATION.

##### *Detriment to Services Organized over the Whole Administrative County.*

609. The views of County Councils on this aspect of the operation of the existing law and procedure were stated in Mr. Dent's memorandum of evidence as follows† :—

"For many services, such as roads, tuberculosis, higher (including agricultural) education, rivers pollution, mental deficiency, etc., it is generally acknowledged that the larger the area (within reason) the better the administration. Any change, therefore, if change there must be, should be in the direction of strengthening rather than weakening the County unit.

"Under the County system every part of the County is assured of obtaining the services it needs by means of its own local administration, supplemented by the wider services of the County Council which are equally available throughout the administrative area."

The statement that "the larger the area (within reason) the better the administration" was further analysed by Mr. Dent in his oral evidence, in which he said that when he used the word "better" he meant that a service could be more efficiently, economically, and effectively administered over a large area.‡

610. There was, however, a distinction to be drawn between the reasons which made the normal Administrative County a suitable area over which to administer services not rendered directly to particular persons, and those which made it a suitable area for services which were so rendered.

*Impersonal Services.*—For services of the first type, which included the maintenance of main roads and the prevention of the pollution of rivers, what a County Council required was sufficient financial resources and a jurisdiction over an area sufficiently comprehensive to enable them to look at the problems before them on a proper scale and to engage a staff qualified to deal with them.§

*Personal Services.*—For services of the second type, which included higher education and the provision made for the treatment in institutions of tuberculosis, venereal diseases, lunacy, and mental deficiency, what a County Council required was sufficient financial resources and an area of such size that it contained a population from which the Council could draw so many pupils or patients that they were able to provide a scheme

\* Taylor, Q. 13,657-61 (IV, 846).

† Dent, M. 37-8 (III, 467).

‡ Dent, Q. 7276-78 (III, 479).

§ Dent, Q. 7300-3 (III, 479).

of education, or institutions for treatment, on economical terms. That is to say, the proper area for the administration of any of the services in question could only be determined by reference to population, financial resources, and the requirements of the population for a particular service, and could not be settled on the basis of superficial area alone.\*

611. The objections of County Councils to the continued operation of the existing law and procedure were threefold.

612. First, it would have the effect of making the residue of the areas of Administrative Counties less well adapted for the administration of services of either type, since it would at the same time reduce the financial resources of County Councils, and make it necessary to re-adjust the system under which institutions were provided as part of some of the services.†

As regards the effect already experienced, Sir William Vibart Dixon said, for example, in relation to the system of public education organized by the County Council in the West Riding of Yorkshire (in which four County Boroughs have been constituted and seven extended since 1889‡), that, notwithstanding the constitution of three County Boroughs in recent years, the educational administration of the County Council had not so far suffered any loss of efficiency; that there had been no dislocation of the County system of education; that the constitution of the three County Boroughs had not increased the cost of the system; and that the loss to the County Council of the contributions from ratepayers in those three County Boroughs towards meeting the cost of administering the system would be taken into account in the financial adjustments which had to be made as the result of the alterations of the area of the Administrative County. So far as the service of public education was concerned, the growth of population in the County had been such as to enable the County Council to maintain the service in the same state of efficiency as prevailed before the County Boroughs were constituted; but each alteration of the area of the Administrative County had imposed upon the County Council and its officers more effort in re-arranging the educational system after the alteration.§

613. Secondly, it would make Parliament reluctant to entrust further functions to County Councils, since if the areas of Administrative Counties were diminished it might appear that County Councils were no longer suitable Authorities to exercise functions which ought, according to the best instructed opinion, to be exercised over areas at least as large as the present normal Administrative Counties.||

\* Dent, Q. 7279-95 (III, 479), Q. 7306-11 (III, 480).

† Dent, Q. 7292-5 (III, 479); Joy, Q. 17,501-21 (V, 1079).

‡ Ministry of Health (Gibbon), Appendix XXIII, Table A (I, 181).

§ Vibart Dixon, Q. 10,600-15 (III, 650).

|| Dent, Q. 7028-33 (III, 464).

614. Thirdly, it would stand in the way of any system of devolution of administrative powers to County and County Borough Councils, such as was contemplated by section 10 of the Local Government Act, 1888; and would be prejudicial to the consideration by Parliament of the possibility of devolving any of its own functions upon Local Authorities having jurisdiction over large areas.\*

*Increase of Burdens upon Ratepayers.*

615. Evidence on this point was submitted on behalf of County Councils by Mr. Keen, who said that, as the result of a wide experience, the view which he held was that economy seldom, if ever, resulted from the constitution or extension of a County Borough.† While it was a matter of great difficulty to give any definite figures showing that either economy or extravagance resulted, having regard to the fact that there was a continuous development of services in all the areas affected, he thought that there could be no doubt that one result was that the scheme of administration in the area affected was altered, and that the higher salaries paid to the officers of the County Borough Council meant that more was expended on administration than before, apart from the compensation which had to be paid to any displaced officers.‡

616. Mr. Keen explained that the only material available to him in forming his conclusions was, first, the amount of the rates in the pound, and, secondly, the cost of administering services, in the area affected before and after the County Borough was constituted or extended. He attributed the fact that the rates were higher in County Boroughs, taken as a whole, than in other types of local government areas, partly to the form of government, and partly to the size and character of the community for which a County Borough Council had to provide local government services.§ His general conclusion, that large areas of local government were not more economical to administer than smaller areas, was based upon the comparison of County Boroughs with other local government areas, and the term "large" meant that in County Boroughs, on the average, the population was more numerous and the rateable value higher than the population or rateable value in the areas under the jurisdiction of any other type of Local Authority. He was not prepared to say that economy would never result from the extension of the boundaries of a County Borough, but his experience suggested to him that in the majority of cases the rates would increase; and in the specific instances which he

\* Dent, M. 35 (III, 466), Q. 7261-6 (III, 478).

† Keen, M. 10 (IV, 718).

‡ Keen, M. 18 (IV, 719).

§ Keen Q 15 145-8 (IV, 929).

mentioned\* he had assumed that the figures for three years before the alteration of areas compared with the figures for three years after the alteration afforded a fair basis for a conclusion on the question whether economy in administration had resulted from the alteration.†

### **Prospective Effects of the Continued Operation of the Existing Law and Procedure.**

#### **GENERAL.**

617. The witnesses on behalf of County Councils who dealt with this matter drew a distinction between the effect upon County administration of the alterations of the area of the Administrative County which had already been made, and the effect which, from their knowledge of local conditions, they thought might reasonably be expected to result if further alterations were made under the existing law and procedure.

618. Mr. Dent said in his memorandum of evidence that the practical effect of progressive reductions in the areas of Administrative Counties would be that County administration would become increasingly difficult and unnecessarily expensive, by reason of the fact that alterations of area would eventually result in transforming the Administrative County into a number of scattered and detached areas impossible to be worked from natural centres.‡ He explained in his oral evidence that no Administrative County had in his opinion yet been reduced to this state, and that the view expressed in his memorandum was a forecast based upon the facts relating to alterations of area already made that he had laid before the Commission.§

619. As an example of the difficulties foreseen by County Councils under this head, Mr. Mellish, Vice-Chairman of the Nottinghamshire County Council, referred to an area affected by the proposals of the Nottingham City Council in 1919. He said that if the proposed extension had been carried out the effect would have been to leave a long narrow strip of territory between the new City boundary and the boundary of the Administrative Counties of Nottinghamshire and Derbyshire. This strip of country is crossed by several main roads radiating from Nottingham, and the short and isolated lengths of such roads left in the Administrative County would have been very expensive for the County Council to maintain. Other difficulties

\* The Potteries Federation (which took effect as from the 31st March, 1910) ; the extension of the City of Birmingham (which took effect as from the 9th November, 1911); the extension of the Birmingham Union (which took effect as from the 1st April, 1912) ; and the extension of the Westminster Union (which took effect as from the 1st April, 1913).

† Keen, Q. 15,295-306 (IV, 934), Q. 15,329-37 (IV, 935).

‡ Dent, M. 30 (III, 466).

§ Dent, Q. 7156-60 (III, 474).

would also have arisen in providing for the policing of this isolated area.\*

620. We understood from Mr. Dent that the service of education, and in particular higher education, and the maintenance of main roads, were the services most affected from the point of view of administration.†

#### UPON COUNTY SYSTEMS OF EDUCATION.

621. In order to illustrate the effect which the continued operation of the existing law and procedure might have upon two highly organized County systems of education, the existing systems in Lancashire and in the West Riding of Yorkshire, and the prospective results of further alterations of area upon them, were described to us in detail by Mr. Taylor and Sir Percy Jackson.

#### *Lancashire.*

622. In Lancashire, co-operation between the County Council as Local Education Authority, the Authorities who are not Local Education Authorities, and the other Local Education Authorities throughout the geographical County (that is, including County Borough Councils) is secured by various means.

623. First, a voluntary Association has been formed in which all Local Education Authorities in the County with the exception of Manchester, Liverpool, St. Helens, and Salford are represented. The Association normally acts through an Executive Committee made up of four representatives of the County Council, one of each County Borough, five of Non-County Boroughs, and three of Urban Districts. This Association has been mainly occupied hitherto in discussing questions relating to salaries of teachers, but has from time to time concerned itself with other educational questions of common interest.‡

624. Secondly, it is the normal practice of the County Education Committee to co-operate with the Education Committees of County Borough Councils in the administration of secondary and technical education. Agreements have been made between the County and County Borough Councils for the reception in secondary and technical schools, on suitable terms of payment, of pupils whose place of residence is outside the area of the Authority responsible for the school which the pupils attend.§

625. Thirdly, the County Council give facilities to students resident in County Boroughs to attend the schools and lectures devoted to agricultural education which are organized by the County Council, and provide advice upon agricultural questions to residents in County Boroughs. There are 53,000 acres of cultivated land in County Boroughs in Lancashire, but no

\* Mellish, M. 15 (III, 559), Q. 8697-705 (III, 560).

† Dent, Q. 6972-3 (III, 462).

‡ Taylor, M. 13 (III, 605) Q. 9632-44 (III, 606).

§ Taylor, M. 14 (III, 605), Q. 9647 (III, 606), Q. 9660-3 (III, 607).

provision for agricultural education is made by the County Borough Councils.\*

626. Fourthly, it is the policy of the County Council as a Local Education Authority not to make any important change in administration without consultation with the Local Authorities whose areas are within the jurisdiction of the County Council for the administration of all forms of education, and with the Authorities who are Authorities for elementary education. With the latter Authorities the County Council have formed three joint Sub-Committees for considering questions relating to (a) elementary education, (b) day continuation schools, and (c) training of teachers, respectively. Each Sub-Committee consist of two representatives of the County Council, and eight representatives of Non-County Borough, and four of Urban District, Councils who are Authorities for elementary education.†

627. Fifthly, the County Council have established a number of local Committees, both for elementary education (thirty-three Committees) and for secondary and technical education (ninety-nine Committees) in urban areas. The County Education Committee devolve a large amount of detailed work on these Committees, and they attach great importance to securing the local interest of as many people as possible.‡

628. Mr. Taylor submitted that the existing educational organization under the direction of the County Council secured friendly relations between the whole of the Authorities in Lancashire, and provided the most efficient system available for the whole of the urban and rural areas within the jurisdiction of the Council as Local Education Authority. It was, therefore, in his view undesirable that the existing area of the Administrative County should be so altered as to interfere seriously with the continued smooth working of this system.§

#### *West Riding of Yorkshire.*

629. In describing the present organization of public education in the West Riding of Yorkshire, Sir Percy Jackson said, first, that while no voluntary association had been formed such as that existing in Lancashire, in which Authorities of all types throughout the geographical County were represented, the County Council as a Local Education Authority had conferred on educational questions with County Borough Councils and the Councils of Non-County Boroughs and Urban Districts who were Authorities for elementary education, especially before the existing scales of teachers' salaries were fixed.||

\* Taylor, Q. 9647-8 (III, 606).

† Taylor, M. 15 (III, 605), Q. 9665-81 (III, 607).

‡ Taylor, Q. 9658 (III, 607).

§ Taylor, M. 16 (III, 605), Q. 9659 (III, 607), Q. 9677-84 (III, 607)

|| Jackson, Q. 10,949-51 (III, 677).

630. Secondly, a Consultative Committee, having among its members teachers employed by the Councils who were Authorities for elementary education only, as well as teachers employed by the County Council, exists for the consideration of questions of elementary education, but does not include teachers employed by the County Borough Councils.\*

631. Thirdly, in County Districts in which they are the Authority for all forms of education, the County Council have established 120 District Sub-Committees, who cover groups of six, eight, or ten villages, and consist of at least one member of the County Education Committee, together with other members appointed from Urban Districts by the Urban District Councils, or added to the Sub-Committees. These Sub-Committees are empowered to appoint assistant teachers and subordinate members of the staff of the schools; they take part in the appointment of head masters and head mistresses; and they are charged with the general management of the schools, subject to the financial control which the County Council are bound to exercise. The Clerks of the District Sub-Committees are officers of the County Education Committee.†

632. Fourthly, in making provision for secondary education, the County Council have acted jointly with the County Borough Council of Huddersfield in building a secondary school in the County Borough which is managed by the two Authorities in co-operation, each contributing to its maintenance according to the number of pupils drawn respectively from the Administrative County and from the County Borough.‡ In addition, the County Council are under agreements with the County Borough Councils of Barnsley, Leeds, and Rotherham, by which pupils resident in the Administrative County are admitted to secondary schools in the County Boroughs on payment by the County Council of an agreed proportion (usually 80 per cent.) of the charges falling upon public funds, and pupils resident in the County Boroughs are admitted to County secondary schools upon similar terms.§

633. Fifthly, the County Council (with the Councils of the other two Ridings of Yorkshire) are represented upon the Yorkshire Council for Agricultural Education, and pay half the expenses of the Council. The County Borough Councils are not represented on this body, and do not contribute towards its expenditure.||

634. Further, the County Council provide for the training of teachers, have established both separate technical schools and technical departments of secondary schools, maintain classes in

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\* Jackson, Q. 10,952-5 (III, 677).

† Jackson, Q. 10,852-88 (III, 673).

‡ Jackson, Q. 10,901-2, 10,904 (III, 675).

§ Jackson, Q. 10,914 (III, 675).



mining at various centres in the West Riding, and contribute over £5,000 a year to the expense of adult education.\*

635. Sir Percy Jackson said that while the County Council had succeeded in adapting their educational system to the alterations of the area of the Administrative County which had taken place between 1889 and the present time, it must not be assumed that they could maintain their system if further alterations were made. They had already increased the assessments on property in the Administrative County, but notwithstanding this the higher education rate, which used to be 2*d.*, had now risen to 7*d.* In his view, if the resources available to the County Council were further diminished, it would not be practicable to raise a still larger rate for higher education from the residue of the ratepayers in the Administrative County, or to increase the assessments again. Hence, the only course open to the County Council would be to discontinue some of the higher education services which they were now providing, such as their agricultural scheme, their scheme of adult classes, and their provision for instruction in mining; and as regards elementary education, while he could not name a definite date at which teachers' salaries would be affected, he was definitely of opinion that if the operation of the existing law and procedure continued as it had for the last twenty years, the scales of salaries of teachers employed by the County Council would have to be reduced, with the result that the education of the children of County ratepayers would not be as good as it was, because the County Council would have to be content with the services of teachers who would accept the lower scales.†

636. Sir Percy Jackson did not admit that the relief to the County Council of not having to provide for the pupils who lived in areas which became, or were added to, County Boroughs, was commensurate with the loss which the County Council incurred in their resources. The expenses of educational administration in the West Riding were 4 per cent. of the total expenditure on education, and when alterations of area were made it was not possible to readjust the staff in exact proportion to the number of pupils for whom the County Council no longer had to provide. The Council might have a single officer, who was engaged as an expert in one subject, to supervise the teaching of that subject in all the schools in the Administrative County, and the transfer of half-a-dozen or a dozen schools to the jurisdiction of a County Borough Council did not enable the County Council either to reduce the salary of such an expert, or to dismiss him with the intention of paying a lower salary to a less well qualified substitute.‡

\* Jackson, M. 17 (v) (vi) (vii) (III, 672), Q. 10,959-62 (III, 67 Q. 10,964-7 (III, 678).

† Jackson, Q. 10,997 (III, 679), Q. 11,012-9 (III, 680), Q. 11,031-40 (III, 680).

‡ Jackson, Q. 11,235-51 (III, 688).

## UPON MAINTENANCE OF MAIN ROADS.

637. Under this head the witnesses on behalf of County Councils expressed the view that, important as was the question of the increased burden of expenditure on the maintenance of main roads thrown upon County ratepayers by alterations in the area of an Administrative County, even more weight should be attached to their contention that by such alterations the County system of administration of main roads was dislocated in a way which impaired its efficiency and uniformity without being susceptible of remedy under the existing law and procedure relating to financial adjustments.

So far, therefore, as these alterations were prejudicial to the proper standard of the service, in spite of any payments made to County Councils by County Borough Councils in respect of an increase of burden in the cost of the maintenance of main roads, or of any contributions by the taxpayer towards the cost of the service, the County Councils would remain of opinion that the alterations were undesirable on administrative, as distinct from financial, grounds.\*

638. It was mentioned by Mr. Mellish as an illustration of this point that had the proposals for the extension of the City of Nottingham made in 1919 been carried out, one result would have been that, concurrently with a loss of over 20 per cent. of the assessable value of the Administrative County, the County Council would have had to continue to maintain over 90 per cent. of the present total length of County main roads. Hence the County Council would not have been able to effect a saving in the cost of the County Surveyor's department proportionate to the increased burden thrown upon them in maintaining the residue of the County roads out of their diminished resources.†

## UPON OTHER SERVICES.

639. Reference was also made under this head to the trouble and expense imposed upon County Councils as the result of the operation of the existing law and procedure in reorganizing other services and duties, such as police divisions, the districts of divisional surveyors and Medical Officers of Health, and public health services, including joint arrangements for the provision of hospitals and sanatoria.‡

In such a County as the West Riding of Yorkshire, the County Council had at present been able to maintain their resources, and an increased volume of work had been thrown upon them by Parliament, and owing to the growth of the population, so that the measure of disturbance resulting from the alterations of area hitherto made was that the administrative expenses of the

\* Taylor, M. 31 (III, 610), Q. 13,656-65 (IV, 846).

† Mellish, M. 13 (III, 559).

‡ Mellish, M. 12-16 (III, 558), Q. 8683-9 (III, 560); Hinchliffe, M. 24 (III, 570); Holland, Q. 13,994-14,014 (IV, 866), Q. 14,024-41 (IV, 867).

County Council increased in proportion to their total outlay. But their Chairman, Sir James Hinchliffe, represented that the necessity for frequent readjustments of duties and reallocation of staff was in itself prejudicial to administration, and that the County Council could not be assured that the conditions which had enabled them to accommodate themselves to alterations of area would continue to prevail. He also pointed out that other County Councils who had not the same resources in finance and personnel would be more deeply affected by any reductions of the present area of the Administrative County.\*

#### UPON THE PERSONNEL OF COUNTY COUNCILS.

640. The witnesses on behalf of County Councils considered that any further loss of personnel resulting from alterations in the area of Administrative Counties would be prejudicial to County administration. It was explained on their behalf that the members of County Councils who represented the Boroughs and Urban Districts most likely to be affected by proposals for such alterations as a rule owed their election to the County Council to the fact that they had been members of other Local Authorities for a long time, and had commended themselves to the electors. They were able, therefore, as members of the County Council, both to put before the County Council the particular wishes of the inhabitants of their own constituencies, and also, in the light of their local experience, to view the larger questions of County administration in the wider aspect necessary for efficient County government.†

Mr. Holland, an Alderman and Vice-Chairman of the Surrey County Council with previous experience as a member of an Urban District Council, who submitted this general argument, was not prepared to say that the members of County Councils from urban areas were superior in their qualifications to those who came from rural areas. But he attached importance to retaining on the County Councils the members drawn from Boroughs and Urban Districts, as well as those who had experience of service as members of other Local Authorities.‡

641. The late Lord Long said that from his experience he considered that the system of County government which it had been intended to establish by the Act of 1888 had worked satisfactorily; but that it could not continue to do so if the administrative powers of County Councils were continuously diminished by taking away from them the more highly developed parts of the Counties. He meant by this that there would be greater and greater difficulty in encouraging persons who had a capacity for local government, and were able to give the time to it that was necessary, to serve as members of a County

\* Hinchliffe, Q. 9052-62 (III, 578).

† Holland M. 37 (V, 1125).

‡ Holland, Q. 18,446-52 (V, 1125).

Council. Men who fulfilled both conditions were, in his opinion, more often to be found in the urban than in the rural areas, if only for the reason that the means of communication with the place of meeting of the County Council were better between the urban areas and that place.\*

642. Evidence to the same effect, bearing particularly upon the system of education established by the West Riding of Yorkshire County Council, was given by Sir Percy Jackson, who said that he attached importance to keeping available to County Councils as Local Education Authorities the services of members with the varied kinds of experience derived from seeing the County system in operation in the larger and the smaller towns as well as in rural villages.†

He thought that County Councils could rely more than County Borough Councils upon additional services given by local residents who were not themselves members of a County Council. In the West Riding such services were rendered in the visitation of schools and by gifts of land and of scholarships.‡

Again, an Authority such as the West Riding County Council, who had great resources and could rely upon personal help in the various localities, were able to provide education of a more varied kind, and to employ more varied types of experts, than any of the Councils of the smaller County Boroughs.§

643. Sir Percy Jackson made a general criticism of the administration of public education by County Borough Councils by saying that "in a large County Borough education is ruled by the Director and his staff very much more than it is in the County." He subsequently explained that in making this statement he had in mind large Cities, such as Leeds and Sheffield, and not County Boroughs of moderate size; he thought that, in the absence of any such provision for the delegation of functions as was made by the West Riding County Council, the limit of population which could enable the Authority to count upon local interest in administration was about 300,000, and that where there was a population of 400,000 or 500,000 within the jurisdiction of a single Council, local interest could not be maintained.||

644. Further, he considered, from his experience of the personnel of County and County Borough Councils and their Education Committees, that a higher type of representative was elected to County Councils than to County Borough Councils, and that there was a greater opportunity in the Counties for the enlistment of the services as members of Education Committees

\* Long, M. 7 (III, 563), Q. 8843-8 (III, 567).

† Jackson, Q. 10,982 (III, 678).

‡ Jackson, Q. 10,982 (III, 678).

§ Jackson, Q. 10,986 (III, 679).

|| Jackson, Q. 10,982 (III, 678), Q. 10,987-91 (III, 679), Q. 11,059-68 (III, 682).

of men and women who were keenly interested and had considerable knowledge of the work and its difficulties. He accounted for the advantage of County Councils in this respect by saying that the County Districts usually sent two or three of their best representatives to the County Council, and that the remainder of the members of the Local Authority would not be of the same calibre; so that if, for example, a large Non-County Borough was constituted into a County Borough, and the Council thereupon became responsible for the administration of all forms of public education, the Authority would be inferior to the County Council who had previously administered higher education in the Borough.\*

### **Evidence on behalf of Town Councils.**

#### **The Operation of the Existing Law and Procedure is Not Prejudicial to County Government.**

##### FINANCIAL EFFECTS OF THIS OPERATION.

##### *Financial Adjustments are Adequate.*

645. It was submitted by the late Sir Robert Fox on behalf of Town Councils that the administrative system of the County Council and the interests of the County ratepayers suffered no damage as the result of the operation of the existing law and procedure which was not recouped by payments under the Act of 1913 in respect of any increase of burden thrown upon the County ratepayers.†

##### ADMINISTRATIVE EFFECTS OF THIS OPERATION.

##### *Dislocation of Services is Transitory.*

646. As regards the effect of the operation of the existing law and procedure on services organized by County Councils, the late Sir Robert Fox said that in his opinion the administrative difficulties of a County Council from whose area a County District had been severed were less than those of the Council of the County Borough. In any event, he submitted that the resulting dislocation meant nothing more than a little temporary inconvenience and a little additional work for County Councils and their officers. Such a measure of dislocation should not be considered as a matter of principle, but should be looked at in its true dimensions as a price which ought to be paid in order to arrive at a better and more economical form of local government for areas which had hitherto been part of the Administrative County.‡

647. Mr. Harbottle, the Town Clerk of Blackpool, suggested that the only service in regard to which any serious difficulty

\* Jackson, Q. 11,082-92 (III, 682).

† Fox, Q. 7702 (III, 515), Q. 7717-8 (III, 516).

‡ Fox, M. 49-50 (III, 512), Q. 7702 (III, 515).

might arise was higher education. As regards elementary education, a financial adjustment under the Act of 1913 was made in respect of all elementary schools taken over, and the teachers became the servants of the County Borough Council, or were compensated if they lost their appointments. No difficulty arose as regards police forces, at any rate in such Counties as Lancashire, because the County police who were no longer required in the affected area could be sent to other parts of the residue of the Administrative County, and vacancies were constantly arising in the County police force.\*

### **Prospective Effects of the Continued Operation of the Existing Law and Procedure.**

#### **GENERAL.**

648. The late Sir Robert Fox agreed that the constant anticipation of alterations of the area of an Administrative County, which might be proposed at any time and in application to any part of the County, involved the County Council concerned in considerable difficulties, and increased the complexity of the problems of administration with which they had to deal.†

649. On the other hand, he said, first, that as a rule proposals which would have a serious effect on the system of County administration were discussed locally for months, if not years, before the proposal took a formal shape, and he thought that in this way the County Council received warning of the possibility that they might have to adapt their policy to altered circumstances.‡

Secondly, he did not accept the view that the development of services administered by County Councils was hindered by the prospect of proposals being made for the alteration of the area of the Administrative County. He submitted that a County Council would not stop the maintenance of important local government services which were already well established, and that the only way in which uncertainty could interfere with the Council's administration would be that it might hinder them in proceeding with some new and special development in the areas likely to be affected.§

#### **UPON HEALTH SERVICES.**

650. As regards local government services already in operation, he took as examples provision for maternity and child welfare and for the treatment of tuberculosis and venereal diseases.

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\* Harbottle, M. 61-2 (VI, 1316).

† Fox, Q. 7693 (III, 514).

‡ Fox, Q. 7694-5 (III, 515), Q. 7703 (III, 515).

§ Fox, Q. 7696-9 (III, 515).

He thought that schemes of maternity and child welfare would not be seriously affected by any alteration of the area of the Administrative County of which a County Council were warned two or three years in advance.

As regards a scheme for the treatment of tuberculosis, the principal part of the scheme affected by an alteration of area was, in his view, the provision of domiciliary treatment. If it were said that the County Council ran the risk of establishing institutions which would be too large for their requirements if the area of the Administrative County were substantially reduced, he would reply that the service was not yet sufficiently developed for any County Council to have come to that point, and also that the progress of medicine meant that a larger number of cases was continually being sent for treatment, as the disease was discovered in patients who a little while ago would not have been thought to have been suffering from it.\*

As regards schemes for the treatment of venereal diseases, an alteration of the area of the Administrative County had little or no effect, because such schemes were generally administered by agreement between County and County Borough Councils, and the accommodation was provided in voluntary institutions, the governing bodies of which took no account of the areas from which patients came, provided that they were paid by some Local Authority for the treatment.†

#### UPON THE PERSONNEL OF COUNTY COUNCILS.

651. As regards the prospective effects of the continued operation of the existing law and procedure on the personnel of County Councils, the late Sir Robert Fox did not attach any importance to the opinion which had been expressed that alterations of area made it impossible for the members of County Councils to be as highly qualified for their work as they had previously been. He felt no doubt that, as a general rule, new members would be found to come forward who would be capable of taking the same part as had been taken by those members who, after the alteration of area, would take part in the government of a County Borough instead of the government of the Administrative County.‡

#### **The Areas of Administrative Counties should be Regarded as subject to Reorganization.**

652. The general view of Town Councils as to the position of County Councils who found the area of the Administrative County reduced by the operation of the existing law and procedure below the size over which County services could be properly administered was that, under the Act of 1888, County

\* Fox, Q. 7700 (III, 515).

† Fox, Q. 7701 (III, 515).

‡ Fox, Q. 7729-36 (III, 517).

Councils had the same power as Town Councils to make proposals for the alteration of their boundaries, and that they ought to make use of this power by putting forward proposals for the union of the residue of one Administrative County with a part or the whole of another. The Town Councils regarded this suggestion as being in harmony with the principle of the Act, although they were primarily concerned with their own right to make proposals to Parliament, either under the Act of 1888 or by Private Bill, for modifications in the system of local government required in view of the facts that the population of urban areas had grown, and that a given population now required more space in which to live and to perform its work.\*

653. In considering the question from this point of view, Town Councils had discarded sentiment and regarded the matter purely as a question of administration. If it were so regarded, they thought that the present requirements of local government were entirely different from those of the days in which ancient boundaries such as those of the County were drawn. Since that time Parliament had passed Acts providing for local self-government, and if a town was entitled to be constituted into a County Borough, the fact that the system of County administration would be interfered with ought not to affect the question of constituting the town into a County Borough. At the same time, the system of County administration must not be permanently interfered with and spoilt because the town had become a County Borough; and therefore Parliament had devised the arrangement for the alteration of County boundaries to which Town Councils drew attention.†

#### **Densely Populated Urban Areas are Best Administered by County Borough Councils.**

654. The witnesses on behalf of Town Councils held the view that the best form of local government for densely populated urban areas was administration by County Borough Councils. They said that the inhabitants of such areas could be better provided with the services which they required by a single governing body than by a multiplicity of such bodies; that greater interest was taken in local affairs if they were so managed; that local government elections in County Boroughs were more vigorously contested; and that greater publicity was given by the Press to the proceedings of a County Borough Council than to those of a County Council. Further, the members of a County Borough Council were able to keep in closer touch with their constituents, and to exercise more personal supervision over the work of the Council's officers, than the members of a County Council.‡

\* Fox, Q. 7330 (III, 491).

† Fox, Q. 7439-42 (III, 496), Q. 7446-7 (III, 496); Brooks, M. 17 (IV, 892), Q. 14,471 (IV, 894), Q. 14,477-87 (IV, 895), Q. 14,503-8 (IV, 896).

‡ Harbottle, M. 76 (VI, 1319); Brooks, Q. 14,882-5 (IV, 914); Jarratt, M. 49 (IV, 955), Q. 15,532-74 (IV, 945); Smith, Q. 17,153-61 (V, 1048).



655. One reason why the criticism and control of the Council by the electors was more effective in a County Borough than in an Administrative County was that the County Borough Council were responsible for collecting the rates required to meet their expenditure on services which they administered; but in the Administrative County the rates levied to defray the cost of services administered by the County Council were collected by the local Overseers as part of the Poor Rate, and not by officers of the County Council. The result was that criticism of the expenditure for which the County Council were responsible was generally directed against the Local Authorities of County Districts, who were not responsible, and that the County Council escaped the criticism which they ought to have to meet.\*

656. The general view of these witnesses was that an urban area which was situated close to a large centre of population could not develop in the same way, or as efficiently, so long as it remained part of the Administrative County, as it could if it were brought within the jurisdiction of a County Borough Council.†

It was submitted that where populations were urban in character, and were near together, greater efficiency and economy were secured by forming areas of a reasonable size which could be governed by a single Local Authority. The requirements of the population of the whole area for local government services were then similar in kind, and the services could be administered for the inhabitants by a single staff which, owing to the amount of the resources and the scope of the operations of the County Borough Council, could be more highly qualified than the staff of the various Authorities whom that Council had replaced in the area. The proper principle to apply to the local government of urban areas was to provide the elected members of the Authority, with whom the decisions of policy rested, with the most highly qualified officers who could be obtained to carry out those decisions in the most efficient and economical manner. The concentration of local government in the hands of a smaller number of separate Authorities resulted in a reduction of the membership of Local Authorities taken as a whole; but this, if it were any disadvantage, could not be set against the advantages resulting from the concentration of administrative powers.‡

### **Importance of Facilitating Industrial Development.**

657. Certain witnesses on behalf of Town Councils suggested that the operation of the existing law and procedure should be considered satisfactory in so far as it secured that the existing

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\* Harbottle, M. 77 (VI, 1319).

† Brooks, Q. 14,519-23 (IV, 897).

‡ Fox, Q. 7399-409 (III, 494), Q. 7414-22 (III, 495).

system of County government should not continue to be applied to any area in which it was found to involve any retardation of the development of industrial or other populous communities.

This suggestion was based upon the view that local government by a County Borough Council was inherently superior to local government by a County Council in application to any area in which the Local Authority were called upon to deal with industrial populations or populous areas. While this principle could not be applied at large to every town with a population of not less than 50,000, it was submitted that it should be borne in mind in the consideration of the circumstances of each proposal for the constitution or extension of a County Borough. The proper test of the desirability of a proposal was to recognize that a single large industrial centre was more important than five or six smaller centres of population, or than the Administrative County concerned, for the reason that the interests of the inhabitants of such a centre ought to be regarded as national interests which should be preferred to those of the inhabitants of the remainder of the country, which was, and might remain, under County government.\*

658. It would follow, as regards the constitution of County Boroughs, that the interests of an industrial community which had reached the size contemplated by the statute were paramount within the Administrative County in which the Borough lay, and that no obstacle should be put in the way of such a community if its governing body came to the conclusion that the inhabitants would benefit by the constitution of the Borough into a County Borough.†

It would also follow, as regards the extension of the boundaries of a County Borough, that the needs of a community outside the boundaries of the Borough could not be met by its own Council, or by the County Council, so quickly or efficiently as by the County Borough Council if the area were included in the Borough. If the Council of the outside area were left to make the requisite provision, they would not be in a position to do so as efficiently as the County Borough Council until the outside area had grown to the size, or nearly to the size, of the adjoining County Borough. So long, therefore, as the outside area which was in process of development was not provided with the services which the County Borough Council could give it, its industrial development was being retarded by the fact of its remaining under County government.‡

\* Brooks, **M. 10** (IV, 882), **M. 16-7** (IV, 891), **Q. 14,254-61** (IV, 883), **Q. 14,278-81** (IV, 884), **Q. 14,445-70** (IV, 893); Harbottle, **M. 57** (VI, 1315).

† Brooks, **Q. 14,487-502** (IV, 895), **Q. 14,509-14** (IV, 896).

‡ Brooks, **Q. 14,265-77** (IV, 883).

### SECTION 3.—SHOULD THE EXISTING LAW AND PROCEDURE GOVERNING THE ASSOCIATION OF URBAN AND RURAL AREAS UNDER COUNTY GOVERNMENT BE MODIFIED?

**Evidence on behalf of County Councils.**

**The Association Established in 1888 should not be Fundamentally Altered except by General Act.**

659. The first proposal made on behalf of County Councils under this head for the alteration of the existing law and procedure was designed to put an end to the process by which, in their view, the approval by Parliament of successive proposals by Town Councils under which parts of Administrative Counties became, or were added to, County Boroughs was bringing about such a redistribution of local government areas as would amount to the establishment of a system entirely different from that adopted by Parliament in passing the Act of 1888.\*

660. Mr. Dent said that County Councils would not object to the existing procedures by application for a Provisional Order or by the promotion of a Private Bill in so far as they covered proposals which he could describe as “quite moderate and necessary,” although under these procedures effect would normally be given by a separate statute to each proposal approved by Parliament; but that they did object to what he called “the piecemeal procedure” in so far as it brought about organic alterations in the system of local government.† He thought that the effect of the constitution and extension of County Boroughs under the existing law and procedure up to the present time had been to undermine the position contemplated by Parliament in 1888‡; and he explained his view in the following passage of his evidence§:—

“8459. (*Sir Lewis Beard*): Of course, the Act of 1888 was passed to regulate local government, as it then existed, and to create, where necessary, new forms of local government, and to establish a system all over the country which was supplemented by the Act of 1894?—Yes.

“8460. But it was recognized that changes would take place through the shifting of population and the increase of population?—I think undoubtedly it was.

“8461. And to meet that some machinery had to be provided by which boundaries could be altered and new arrangements made?—Yes.

“8462. And within the Counties that is met in cases by the creation of Urban Districts by the County Councils?—Yes, undoubtedly.

“8463. In respect of the County Boroughs it has to be done by means of Provisional Order or Act of Parliament?—Yes.

“8464. But in each case the idea is the same, is it not; it is to meet the development which has taken place owing to the shifting of population?—Yes, certainly.

\* Dent, M. 59 (III, 549).

† Dent, Q. 8446–51 (III, 550).

‡ Dent, Q. 8455 (III, 550).

§ Dent, Q. 8459–69 (III, 550).

"8465. And does not that indicate the only limit which can be put to it, that it must keep pace reasonably with the increase and shifting of population and the necessities of the population?—Yes, within limits.

"8466. What limits?—If the population is shifting to such an extent and changing to such an extent that a fundamental change in our administrative system is necessary, we say that ought to be considered as a whole by Parliament and dealt with as a comprehensive measure, and not by machinery merely designed to deal with comparatively small and exceptional cases.

"8467. You think it was designed only to deal with small cases and not large cases?—I said comparatively small—yes, I do.

"8468. It is rather a vague expression, is it not?—I am bound to use expressions which are to some extent vague in matters of that sort. If you try to be absolutely precise you are bound to give yourself away.

"8469. I agree that there is a difficulty, and I want to put it to you that that indicates that it is practically impossible to lay down in any report or in an Act of Parliament what the limits of this jurisdiction shall be?—It may be so in a sense, but I feel no doubt whatever as to our main contention. The view we take is substantially that the situation created by the Act of 1888 was that fundamentally it recognized a distinction in kind between Counties and Boroughs and minor Authorities within Counties, and its object was to put the County government on a representative basis and provide for certain comparatively minor alterations which might be necessary as populations shifted or changed."

### **Special Reasons for Refusal to Entertain Proposals under Provisional Order Procedure should be Defined.**

661. It was further suggested on behalf of County Councils that if proposals continued to be dealt with under Provisional Order procedure, an attempt should be made to define by legislation the kind of proposals by Town Councils which should from the outset be regarded as so unreasonable that the proper authorities would not be justified in putting the parties to the expense involved in any further consideration of such proposals. The object of this suggestion was to secure that the law should be so clearly expressed that the proposals against which it was aimed could not in future be made, because Town Councils would be required to bring themselves within the statute; or at least that, if any such proposals were initiated, the proper authorities would be able to determine whether the Town Councils had brought themselves within the statute before any expense was incurred in the consideration of the proposals.\*

### **Conditions subject to which Proposals will be Entertained should be Defined.**

662. It was urged on behalf of County Councils that, apart from any other alteration of the existing law and procedure, certain principles should be laid down, for the purpose of securing the stability of local government, as being generally applicable to any proposal for the constitution or for the extension of a County Borough. It was suggested that these principles should not be expressed in the form of conditions which, if satisfied,

\* Hinchliffe, Q. 8883-99 (III, 572) ; Vibart Dixon, Q. 9131-9 (III, 583).

would be construed as showing the existence of a *prima facie* case in favour of a proposal, even if it were possible to set out conditions in such a form.\* The proper form was that of conditions which proposals by Town Councils should be required to satisfy before the proper authorities entertained a proposal so far as to make any inquiry into it; and the following examples of suggested conditions were submitted to us:—

(a) That the proposal should not injure the system of administration for which another Local Authority were responsible to anything like the same degree to which it must be presumed to benefit the system of administration of the Authority who made the proposal†;

(b) That the systems of administration for which County and County Borough Councils were respectively responsible should be regarded as equal in status‡;

(c) That the burden of showing that a proposal was desirable should be held to rest upon the Local Authority who made the proposal, and that, other things being equal, effect should not be given to the proposal§; and

(d) That any objection by the inhabitants of areas affected by a proposal for the extension of a County Borough to the inclusion of such areas in the County Borough should carry great weight.||

663. These conditions were distinguished from the requirement of the existing law that a Borough must have a population of not less than 50,000 before the Town Council can represent that the Borough should be constituted into a County Borough, as being conditions governing the consideration of any such proposal, as distinct from a condition precedent to a proposal.¶ If such conditions were laid down, it would be for the Town Council making a proposal to show that the conditions were satisfied before submitting the facts which in their view established a *prima facie* case in favour of the proposal, but in the opinion of the proper authorities might be either sufficient or insufficient to establish such a case.\*\* The duty of the proper authorities would be, first, to apply their minds to the question whether the conditions were satisfied, just as they must now apply their minds to the question whether the population of a Borough satisfies the condition precedent to the right of the Council to represent that the Borough should be constituted into a County Borough; and only after striking a balance between the arguments of the parties as to the conditions being satisfied should they proceed, if in their judgment the conditions had been

\* Vibart Dixon, Q. 10,814–8 (III, 660).

† Vibart Dixon, Q. 10,826 (III, 660), Q. 10,828 (III, 660).

‡ Vibart Dixon, Q. 10,829–30 (III, 660).

§ Vibart Dixon, Q. 10,827 (III, 660).

|| Vibart Dixon, Q. 10,832–5 (III, 661).

¶ Vibart Dixon, Q. 10,825 (III, 660).

\*\* Vibart Dixon, Q. 10,837 (III, 661).

satisfied, to determine by reference to all the other circumstances which the parties might think fit to put before them whether it was or was not desirable that effect should be given to the proposal.†

**The Conditions of Severance should be (a) Exceptional Circumstances, (b) Necessity of Severance for the Efficiency of the Town Council, and (c) Absence of Adverse Effect upon County Government.**

664. It was suggested on behalf of County Councils that in the best interests of efficient local government the principle of County government as recognized by the Act of 1888 should never be encroached upon by the constitution or extension of County Boroughs unless (a) the proper authorities were satisfied that there were very exceptional circumstances which made it desirable to give effect to a proposal; and that in such very exceptional cases, (b) first, the Town Council by whom the proposal was made should be required to prove conclusively that unless the County Borough were constituted or extended the Council could not discharge their functions efficiently; and (c) secondly, this measure of proof should not prevail unless it were further shown that to give effect to the proposal would not have adverse results upon the existing system of County administration.‡

665. The object which County Councils had in view in advancing these suggestions was that the burden of proving that each of the foregoing conditions was satisfied should in every instance rest upon the Town Council by whom the proposal was made, and that arguments directed to showing that the proposal was desirable from the standpoint of the inhabitants of the Borough should only be admitted if those conditions were first held to have been satisfied.§

As an example of the defects of the existing procedure under this head, Sir William Vibart Dixon said that there was no indication that in dealing with the proposals made by the Leeds and Bradford City Councils in 1920 the Minister of Health had given any consideration to the question whether the Councils had shown that it was essential to the well-being and good government of the Cities that the extensions for which they asked should be granted.\*

666. From the financial point of view, Mr. Keen said that in his opinion the existing law and procedure relating to financial adjustments necessarily left the County ratepayers after each constitution or extension of a County Borough to bear some

† Vibart Dixon, Q. 10,838-40 (III, 661).

‡ Taylor, M. 29 (III, 610).

§ Taylor, Q. 10,059-67 (III, 623).

\* Vibart Dixon, Q. 10,819 (III, 660).

increased burden for which no compensation was paid to the County Council.<sup>†</sup> It followed that unless the Act of 1913 were amended in favour of County Councils, there should be a presumption against giving effect to any proposals under section 54 of the Act of 1888, on the ground of the financial detriment to the County ratepayers which must ensue if the proposals became law.<sup>‡</sup>

He was prepared to qualify his view in application to proposals for the extension of County Boroughs if :—

(a) The ratepayers in a proposed added area were in favour of the inclusion of their area in the County Borough, provided that they had not been improperly influenced by an offer of differential rating§ ; or

(b) A proposed added area, owing to the state of its sanitary administration, were an absolute menace to the County Borough|| ; or

(c) The buildings were continuous from the County Borough into a proposed added area, as the result of the development of the County Borough, so that it could be argued with reason that the inhabitants of the proposed added area enjoyed the advantages resulting from the proximity of the County Borough without paying for them, and that the proposed added area was in fact and indisputably part of the town.¶

### Primary Importance of Effect of Proposals upon County Government.

667. It was submitted on behalf of County Councils that, whatever were the other changes made in the existing law and procedure, the condition that County government must remain essentially unhampered and undisturbed should be retained as paramount.\*\*

Mr. Dent said that the effect of the adoption of this principle would be that, however strong a case could be made out for the constitution or extension of a County Borough, having regard to the merits of the particular proposal, the decision reached as to the merits would be governed by the answer to the question whether, if effect were given to the proposal, the existing system of County government would be essentially hampered. The latter expression was not equivalent to saying that the Administrative County as it stood must not be either virtually extinguished or crippled, because the process ought to stop far short of virtual extinction or impairment of function, and the

<sup>†</sup> Keen, M. 39, (IV, 735).

<sup>‡</sup> Keen, Q. 11,962-7 (IV, 739).

<sup>§</sup> Keen, Q. 11,769-71 (IV, 722), Q. 11,776-86 (IV, 722).

<sup>||</sup> Keen, Q. 11,948 (IV, 739).

<sup>¶</sup> Keen, Q. 11,953-5 (IV, 739).

\*\* Dent, M. 60-1 (III, 549).

preponderating interest to be taken into account was that the County Council should not be unable to maintain their system of administration efficiently if a proposal which diminished the area of the Administrative County were allowed to become law.\* In saying this, Mr. Dent agreed that under the existing law the desirability of any proposal in the interests of the inhabitants of all areas affected must be considered; but in the application of the law to a proposal for the extension of the boundaries of a County Borough he did not think that the particular local interests of the inhabitants of the proposed added areas should outweigh the interests of the Administrative County (as represented by the County Council) of which those areas at present formed part, if it were found that there was a diversity of interest between the Administrative County as a whole and the proposed added areas.†

**The Cumulative Effect of Proposals upon County Government  
should be Taken into Account.**

668. The witnesses on behalf of County Councils urged that the existing law and procedure should be so amended as to make it clear that County Councils were at liberty to submit to the proper authorities, for consideration in their bearing upon any proposal for the constitution or extension of a County Borough, not only (a) arguments based upon the effect which would result from the granting of the proposal then in question, but also (b) arguments directed to showing the effect which had resulted from the granting of previous proposals, and especially (c) arguments directed to showing the effect which would result from the granting of any further proposals put forward on the strength of the precedent set up by the passage into law of the proposal then in question.

**UNCERTAINTY OF THE EXISTING PROCEDURE.**

*In Parliament.*

669. We were given to understand that the existing procedure of Parliament left the question of the admissibility of arguments falling under the head (c) above, which were based upon the prospective cumulative effect of proposals, not free from doubt.

670. Mr. Holland said that the Surrey County Council, in opposing the provisions of the Private Bill promoted by the Wimbledon Town Council in 1913 for constituting the Borough into a County Borough, had stated before the Committee of the House of Lords on the Bill that if the constitution of one County Borough in Surrey led to the creation of another, and yet another, and yet another, the cumulative result would be

\* Dent, Q. 8487-8500 (III, 551).

† Dent, Q. 8523-37 (III, 553).



entirely to revise the whole scheme of government in the County, and to repeal the Act of 1888 by instalments. Counsel on behalf of the County Council had submitted that the residue of the Administrative County would then be an entirely different unit from that which Parliament contemplated when it passed the Act of 1888; and had summed up his argument in the words, "I do not think the County ought to be eaten leaf by leaf like an artichoke."\*

671. In this case the Committee of the House of Lords had ruled that the Bill must be fought on its merits, and not by reference to prospective attacks which might or might not be made upon the County, which were not matters upon which evidence could be given. Mr. Holland stated, however, that the Lord Chairman had admitted that the argument as to cumulative effect was present to the minds of the Committee, and had accepted the submission of counsel quoted above on the general principle of maintaining the system of County administration established under the Act of 1888.†

672. Sir William Vibart Dixon told us that in his experience of Parliamentary proceedings it was the practice of counsel on behalf of County Councils to attempt to make this type of objection to proposals, and that Committees of Parliament differed in their views of the admissibility of such arguments. It was true that it had occasionally happened that arguments based on prospective cumulative effect had been taken into consideration by a Committee; but in general Committees of Parliament were not disposed, when counsel for the opponents were confronted by objections from counsel to the promoters to such an argument, to rove over such a wide field as that which counsel for the opponents were inviting them to enter. At any rate, in his opinion, Committees of Parliament had never considered such arguments so completely as County Councils would desire.‡

673. It was accordingly submitted on behalf of County Councils that no application for the constitution or extension of a County Borough should be granted without reference to, and consideration of, the cumulative effect upon the system of County administration, which, in conjunction with previous applications and prospective analogous applications, might result from passing a particular proposal.§

674. In support of this argument, Mr. Dent said that, while there must be a difficulty in going into the question of prospective cumulative effect to the extent suggested, he thought that when Parliamentary Committees were considering applications from Town Councils in highly industrialised Counties,

\* Holland, M. 12 (IV, 855).

† Holland, M. 13 (IV, 856).

‡ Vibart Dixon, Q. 10,734 (III, 656), Q. 10,750-3 (III, 657).

§ Dent, M. 69 (III, 549).

they were bound to look forward to prospective cumulative effect in order to form a judgment of the results in future of approving the proposal before them. Committees of Parliament should invariably consider the position of the Administrative County as a whole, and should take evidence as to the growth of population, and matters of that kind, in the various districts within the Administrative County which required consideration from the point of view of cumulative effect. Unless they knew what were the tendencies of urban development within the Administrative County, and the prospects of further alterations in the area of the County, it was not possible for them to make up their minds as they should on the desirability of granting the proposal which was at the moment in question.\*

675. Sir William Vibart Dixon thought that it should be conveyed to any Committee of Parliament before whom proposals might come that they should consider the prospective cumulative effect of each proposal before passing any Bill for the constitution or extension of a County Borough; and that any County Council concerned should be entitled to tender evidence to the Committee to the effect that if the arguments submitted in favour of the proposal before them were accepted, similar arguments might reasonably be held to apply to other areas at present within the Administrative County.†

He did not consider that the apparent difficulty that, if this argument were raised by a County Council, the Committee would find it necessary to hear evidence from representatives of all the areas mentioned to the Committee on behalf of the County Council, would in practice arise, because in his judgment neither the Town Council making the proposal before the Committee, nor the Local Authorities of the other areas mentioned by the County Council, would be able to do otherwise than accept the arguments put forward on behalf of the County Council.‡

#### *On Applications for Provisional Orders.*

676. The same point was raised by Sir James Hinchliffe in its bearing upon the procedure by application for a Provisional Order. He said that the question of prospective cumulative effect was, under the existing procedure, always ruled out by the Inspector at the Local Inquiry, and that while he did not suggest that the County Council should be entitled to lay evidence before the Inspector as to prospective proposals by other Town Councils which would affect areas at present within the Administrative County, he thought that the question of prospective cumulative effect should be considered at some stage

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\* Dent, Q. 8644-56 (III, 557).

† Vibart Dixon, Q. 10,730-6 (III, 655), Q. 10 745-53 (III, 656).

‡ Vibart Dixon, Q. 10,737-44 (III, 656).

by the Minister of Health, to whom the Inspector made his report, and that the County Council should be entitled to submit to the Minister a list not only of proposals already approved, but also of proposals which in their judgment might be made in future. §

677. The importance attached by County Councils to this question was exemplified in the evidence of Sir William Vibart Dixon, who submitted to us a statement of the proposals for the constitution or extension of County Boroughs in the West Riding of Yorkshire which had either been formally made or might in his judgment be reasonably anticipated. In round figures, the present area of the Administrative County is 1,641,000 acres, the population in 1921 was 1,473,000, and the assessable value in 1923 was £9,145,000. Sir William Vibart Dixon stated that proposals for the extension of County Boroughs which had already taken a definite form either in discussion by the Town Councils themselves or by submission to the Minister of Health would involve a reduction of about 163,000 acres, 358,000 people, and £1,751,000 of assessable value in the area, population, and resources of the Administrative County; while other proposals for the constitution or extension of County Boroughs which might reasonably be expected to assume a definite form in the near future would involve further reductions in the area, population, and resources of the Administrative County of about 169,000 acres, 553,000 people, and £3,250,000 of assessable value. The gross effect upon the Administrative County, if the whole of the proposals under both the foregoing heads were sanctioned by Parliament, would be to reduce its area by about 332,000 acres, its population by about 911,000 people, and its assessable value by about £5,000,000; and in his opinion the question of making regular provision for the consideration of arguments relating to prospective cumulative effect must be determined with due regard to the facts of the prospective position as they appeared to the Councils of the Administrative Counties most seriously concerned.\*

### **The Question of Requiring Fixed Intervals between Proposals.**

678. It was suggested in the evidence of some witnesses on behalf of County Councils that a means of stabilizing County administration, and of securing that due consideration should be given to the effect of granting successive proposals for the alteration of the area of an Administrative County, might be found in a statutory provision that a definite interval of time must elapse between successive proposals affecting the existing area of the same Administrative County.

§ Hinchliffe, Q. 9046-9 (III, 578).

\* Vibart Dixon, Q. 10,682-4 (III, 654), Q. 10,699-729 (III, 655), Appendix LXVII (III 65).

679. "It would certainly help to stabilize it," said Mr. Dent, "if we had a moratorium for a sufficiently long period of years in which no change was to be made; we should know where we were."\* Mr. Holland, while agreeing that the position of County administration would be improved if it were possible to get the area of the Administrative County definitely fixed for a period, added that he would not like to be called upon to fix the period,† and pointed out other difficulties in the following passage of his evidence§ :—

"13,952. (*Mr. Riddell*): That would involve laying it down that all applications within any particular area must all be made within a certain period of time, would it not?—Yes, that would practically be so.

"13,953. (*Sir Lewis Beard*): In fact, you would have to send a Commission round to various parts of the country, or something like that?—I am not wedded to the idea of having a particular time. I can imagine that all sorts of preparations would be made for that particular time, and it would be almost inviting trouble.

"13,954. (*Mr. Riddell*): I thought that you said just now that you rather approved of the idea?—No; I said that it would have a certain effect if it were carried out; that is to say, it would leave us free and unfettered from alterations over that period. I am not saying that I think it would be the best way of dealing with the problem.

"13,955. Can you suggest any other way of dealing with this question of cumulative effect?—Of course, I am urging very strongly that things should remain as they are.

"13,956. Yes, we always come back to that?—And I am urging that as well as I can in the interests of good local government."

680. Sir James Hinchliffe, who had emphasized in his memorandum of evidence the objections of the West Riding of Yorkshire County Council to the recurrence of proposals for the alteration of the area of the Administrative County,|| said that in his view a statutory provision to the effect that proposals should not be made except at stated periods, unless abnormal circumstances arose in the interval, would be very useful.†

681. Mr. Keen, to whom the suggestion was also put, said that he would hesitate to support it, first, on the ground that if a period were fixed for making successive proposals, he thought that when the time arrived more proposals would be made for the extension of County Boroughs, because the Town Councils would have taken care to formulate proposals which might not have occurred to them unless a definite date for submitting proposals had been arranged; and, secondly, on the ground that the majority of the Administrative Counties were not exposed to the effect of successive proposals, and it would not, therefore, be worth while fixing periods for proposals in the general interest of County administration. The fixing of a date might even give

\* Dent, Q. 7034-5 (III, 465).

† Holland, Q. 13,888-9 (IV, 861), Q. 13,951 (IV, 864).

§ Holland, Q. 13,952-6 (IV, 864).

|| Hinchliffe, M. 9 (III, 568).

† Hinchliffe, Q. 9001-18 (III, 576), Q. 9050-1 (III, 578).

rise to the supposition that when the period for reconsidering the position within the Administrative County was completed, there was a *prima facie* case for giving effect to any proposals which might then be made.||

682. Mr. Joy, the Clerk of the Staffordshire County Council, expressed the view that if the existing law and procedure were so amended as to secure that there was a fair decision of the question whether proposals were or were not desirable, alterations of area should be allowed to take effect at any time if it had been properly decided that they were desirable.\*

683. Mr. Musgrave, an Alderman and Vice-Chairman of the Essex County Council, said that he could not at the moment see any advantage in requiring proposals to be made at stated intervals; and that if it were desired to give a County Council further time in which to readjust their system of administration after Parliament had sanctioned an alteration of the area of the Administrative County, provision could be made to this effect by postponing the date at which responsibility for the area affected should be transferred from the County to the County Borough Council.†

684. Sir William Vibart Dixon did not support the suggestion that an interval between successive proposals should be required by statute, because he thought that if a proposal once made without success were repeated, although the circumstances had not altered, it was the duty of the proper authorities to refuse at the earliest stage to entertain the proposal.‡

### **The Determination of the Areas of Parliamentary Boroughs should be Considered Irrelevant.**

685. Mr. Holland drew attention to the possible effect upon future proposals for the constitution or extension of County Boroughs in Surrey of the procedure adopted in delimiting Parliamentary Boroughs under the Representation of the People Act, 1918, in that County and elsewhere. Under that Act there are 15 County Boroughs and 22 Non-County Boroughs in England and Wales which have been associated with adjacent County Districts for the purpose of making up the population of 70,000 which was normally requisite to qualify a constituency to obtain separate Parliamentary representation. The associated areas are known as Parliamentary Boroughs: 11 of them are in the Home Counties, and three are in the Administrative County of Surrey.§ The Parliamentary Boroughs in Surrey are Wimbledon, which comprises the Non-County Borough of Wimbledon and the Urban District of Merton and Morden;

|| Keen, Q. 11,772-5 (IV, 722).

\* Joy, Q. 17,648-52 (V, 1090).

† Musgrave, Q. 12,665-7 (IV, 800).

‡ Vibart Dixon, Q. 9129-30 (III, 582).

§ Holland, M. 14-15 (IV, 856).

Richmond, which comprises the Non-County Borough of Richmond and the Urban Districts of Barnes and Ham; and Kingston, which comprises the Non-County Borough of Kingston and the Urban Districts of Surbiton and the Maldens and Coombe.||

686. Mr. Holland suggested that the association of these areas for Parliamentary purposes would undoubtedly be used as an argument in favour of their association for municipal purposes if the Council of any of the Non-County Boroughs which formed the nucleus of Parliamentary Boroughs thought fit in future to propose that their Borough should be constituted into a County Borough, or sought to include any of the County Districts affected within the Borough boundaries as a preliminary to a proposal for the constitution of a County Borough.\* He did not question the propriety of grouping these various areas for Parliamentary purposes, but he thought it unfortunate that the term "Parliamentary Boroughs" had been applied to such grouped areas, and he drew attention to the facts as indicating a further possibility against which the existing system of County administration ought to be safeguarded.†

#### **Evidence on behalf of Town Councils.**

#### **The Word "Desirable" in Section 54 of the Act of 1888 should be Retained as the Test of Proposals.**

687. The attention of some of the witnesses on behalf of Town Councils was drawn to the consideration that since the Act of 1888 was passed the system of County government established by the Act had been fully developed, and that it could therefore no longer be assumed that the constitution or extension of a County Borough gave the inhabitants of any area affected the benefit of a more highly developed form of local government than that which they had previously enjoyed. The witnesses were asked whether this difference between the circumstances prevailing in 1888 and at the present time led them to think that some more specific indication should be given than was at present afforded by section 54 of the Act of the conditions under which a proposal for the constitution or extension of a County Borough should now be considered to be desirable.

688. The replies given to this question were in favour of retaining the present wording of the section on this point, namely, that what must be shown is that the proposal is "desirable."

Sir David Brooks said that in his opinion this word indicated with sufficient clearness what kind of case must be made out if a proposal were to succeed, and that the question of desirability could after all only be determined on the facts relevant to each

|| Holland, Q. 13,978-9 (IV, 865).

\* Holland, M. 14 (IV, 856), Q. 13,980 (IV, 865), Q. 13,983-5 (IV, 866), Q. 13,988 (IV, 866).

† Holland, Q. 13,975-6 (IV, 865), Q. 13,981-2 (IV, 866), Q. 13,989 (IV, 866).

proposal. He reminded us that attempts to insert in Acts of Parliament a number of specific reasons for a particular course were apt to lead to great difficulty, and that it had generally been found that the best result followed from the insertion of general words.‡

The same opinion was expressed by Mr. Ellis, who said that his experience told him that any attempt by Parliament to fetter itself by over-precise provisions in a statute would be abandoned if the conditions altered, and if it was shown that a course not provided for by the statute was in fact desirable in the public interest. He would, therefore, consider it unwise to suggest that the wording of the statute should be replaced by any words which aimed at greater precision, and since the system of local government with which it was the object of the Act to deal was not a stable system, but was constantly altering to meet the requirements of the public interest, he thought it useless to attempt to predict with precision what it would be right for Parliament to do with a proposal brought before it so much as ten years hence.\*

#### ADEQUACY OF THIS TEST ON A PROPER CONSTRUCTION.

689. The witnesses on behalf of Town Councils generally accepted as a satisfactory statement of the meaning of the word "desirable" in section 54 of the Act a passage in the reply given by Mr. Asquith (now the Earl of Oxford and Asquith), as Prime Minister, to a deputation from the County Councils Association in 1913, which was to the effect that he was satisfied that the word meant that a proposal must be shown to the satisfaction of the proper authorities to be desirable in the interests of all persons concerned, and that if the interests of various Local Authorities in the same proposal were divergent, the question whether the proposal was desirable must be settled upon an equitable and judicial balance as between all the divergent interests.†

690. As regards the application of this test to proposals for the constitution of County Boroughs, the late Sir Robert Fox said that it was clear to his mind from the terms of the Act, which provided that certain authorities should inquire into any proposal that a Borough having a population of not less than 50,000 should be constituted into a County Borough, that the possession of such a population by a Borough did not in itself entitle a proposal by the Council to succeed. All that he suggested on the question of population was that it gave the Council of a Borough which complied with the statutory condition a right to show cause why the Borough should be constituted into a County Borough; and that it was natural that the Council of a

‡ Brooks, Q. 14,423-40 (IV, 892).

\* Ellis, Q. 21,171-88 (VI, 1259).

† Fox, Q. 7467-8 (III, 497).

Borough whose population had reached this size should consider that the Borough was entitled to be severed from the Administrative County if the inhabitants so desired. At the same time, the question whether a particular proposal was desirable within the meaning of the Act must depend upon local facts and circumstances which under the Act had to be laid before the proper authorities.†

*Possible Amplification of the Terms of the Act of 1888.*

691. The late Mr. Nicholson, while not expressly disagreeing with the foregoing views, thought that an attempt should be made to reduce the cost of the operation of the existing law and procedure by defining with greater precision the principles in the light of which particular proposals for the constitution and extension of County Boroughs should be examined. He said that the principles to be observed were the common principles of representative government; and, applying these principles to the question of the constitution of County Boroughs, that when the ratepayers in a given area were sufficiently homogeneous in sympathy and interest, and satisfied the proper authorities that they were able and willing out of their own local resources to provide and administer their own local services efficiently and economically, they should be entitled as of right to come under the jurisdiction of a County Borough Council.\*

Mr. Nicholson agreed that whatever progress was made with the definition of principles under which particular proposals should be dealt with, full inquiry would be needed into the circumstances connected with each proposal in order to see whether the facts brought the proposal within the principles which had been laid down.†

**The Question of Requiring Fixed Intervals between Proposals.**

692. The attention of the late Sir Robert Fox was drawn to the number of proposals which had been made by certain Councils for the extension of County Boroughs in successive years or at very short intervals, and he was asked whether Town Councils would be favourably inclined to a suggestion that a fixed interval between successive proposals should be required by law. He replied that he had the greatest sympathy with the view of County Councils that they did not want to have to deal at different times with parts of a proposal which ought to be treated as one. He thought that a Council who had framed a scheme for the extension of the boundaries of a County Borough should put forward their whole case at once, in order to define clearly the sphere of administration which would be given in

† Fox, Q. 7387-98 (III, 493), Q. 7410-3 (III, 494), Q. 7443-5 (III, 496).

\* Nicholson, Q. 18,947-59 (V, 1160), Q. 18,972-8 (V, 1161), Q. 18,983-7 (V, 1162).

† Nicholson, Q. 18,974 (V, 1161).



future to the County and the County Borough Council respectively.\*

At the same time, he was opposed to the suggestion that a statutory interval between proposals should be fixed, because special circumstances often arose, within a shorter period than any which could be fixed for the purpose, which made it proper, if not necessary, that a proposal should be put forward without further delay. He was not, therefore, in favour of any more stringent measure for securing the object in view than that the Councils of County Boroughs should be urged by the Minister of Health to prepare their proposals on a comprehensive plan, and that it should be the settled practice of the authorities empowered to deal with proposals to consider, as each proposal came before them, whether a Council had previously made another proposal which ought to have been treated as part of the single plan, and what had been their reasons for doing so. He did not assent to a suggestion that absence of opposition to a proposal made within the period fixed for an interval should be the test whether such a proposal should be taken into consideration, because there were instances in which a proposal ought to be considered and approved whether all the parties concerned agreed to it or not, and if the whole progress of the proposal depended upon consent, that consent might be unreasonably withheld.†

693. Mr. Jarratt, while admitting that the absence of fixed intervals gave rise to the difficulties to which attention had been drawn on behalf of County Councils, agreed with the late Sir Robert Fox in objecting to a statutory interval on the ground that the justification of any proposal for the constitution or extension of a County Borough lay in circumstances of growth and change, and that growth and change occurred with varying rapidity even in neighbouring local government areas.‡

694. Sir David Brooks took a different view of the suggested requirement of fixed intervals between proposals to the extent of suggesting that in the special circumstances in which several County Boroughs were contemplating proposals for including in their areas parts of the same Administrative County, it was not unreasonable to require them either to make their proposals simultaneously, or, if they did not do so, to refrain from making proposals again for some such period as ten years; but he was not disposed to go further than Sir Robert Fox in acceptance of the suggestion that any such requirement should be applied to all proposals without discrimination.§

He was of opinion that special circumstances making it proper to consider fresh proposals would not be likely to arise in any area within a shorter period than a period of, say, ten years;

\* Fox, Q. 7661 (III, 513).

† Fox, Q. 7662-77 (III, 513).

‡ Jarratt, Q. 15,792-7 (IV, 961).

§ Brooks, Q. 14,329-38 (IV, 886).

but he suggested that any fixed interval should not apply to proposals which were put forward either with the consent of all the Local Authorities concerned, or subject to a measure of opposition which did not extend to the principle of a proposal.†

### **Special Considerations relating to the Cost of the Maintenance of Main Roads.**

695. The witnesses on behalf of Town Councils recognized the great importance which in the opinion of Local Authorities of all types attaches to the question of the incidence upon the ratepayers in various local government areas of liability to contribute to the cost of the maintenance of main roads. Their evidence under this head was devoted to the discussion of (a) the equity of the existing law under which the ratepayers in a County Borough are not liable as such to contribute to the cost of the maintenance of main roads outside the Borough boundaries but within the geographical County; and (b) various possible amendments of the existing law or practice in this matter. Their evidence may conveniently be summarized under the following main heads.

#### **THE PROPORTION OF TRAFFIC WHICH IS OF COMMON BENEFIT TO THE INHABITANTS OF THE COUNTY BOROUGH AND OF THE ADMINISTRATIVE COUNTY.**

696. The facts upon which the discussion of this subject was based were that there are now many times more vehicles passing over the main roads than there were in 1888; that the greater part of this increase is an increase in the number of motor vehicles which has occurred well within the last twenty years; that of the additional number of vehicles the larger part begin their journeys in urban and not in rural areas and are owned by the inhabitants of urban areas, whether County Boroughs or County Districts; and that the volume of traffic passing over Class I roads, as ascertained by the census of traffic taken in 1922 under the direction of the Minister of Transport, is greatest at various points either within the boundaries of County Boroughs or within a radius of five to seven miles from the centre of certain County Boroughs.\*

697. It was suggested by the witnesses on behalf of Town Councils that the proper view to take of the burden or benefit resulting from the movements of this traffic was that the ratepayers in County Boroughs and in Administrative Counties both benefited from it, and that as between a County Borough and an Administrative County of the normal type there was no reason to disturb the existing law and procedure on this account.†

† Brooks, Q. 14,339-57 (IV, 887).

\* Fox, Q. 7756 (III, 518), Q. 7793 (III, 520), Q. 7795-800 (III, 520), Q. 7809 (III, 520); Jarratt, Q. 15,779 (IV, 960); Collins, Q. 15,916-9 (IV, 972).

† Fox, Q. 7813-4 (III, 521); Jarratt, Q. 15,788 (IV, 960).

In illustration of this point the position as regards traffic in and near Birmingham was fully discussed in evidence. The Report of the Minister of Transport on the Traffic Census showed that the volume of traffic on the Class I roads running outwards from the centre of Birmingham diminished rapidly, and fell almost to the average volume over the country as a whole within a radius of something like seven miles. It was suggested that the traffic within that radius was a traffic for the common benefit of the inhabitants of the City and the inhabitants of surrounding County Districts, and that in so far as the additional volume of traffic was due to the demands of the inhabitants of the County Borough for supplies from the inhabitants of the Administrative County, it was traffic which was at least as beneficial to the inhabitants of the County as to the inhabitants of the County Borough.\*

698. It was further suggested that if County Councils considered that County ratepayers could not fairly be called upon to contribute to meeting the cost of the maintenance of roads in or in the neighbourhood of County Boroughs bearing an unusually heavy volume of traffic, they should not continue to oppose the transfer of such roads to the jurisdiction of County Borough Councils, with the consequential transfer to the ratepayers of County Boroughs of responsibility for all contributions towards the cost of the maintenance of such roads which were made out of rates. It was on these lines that an answer would be found to the suggestion that, when a County Borough was constituted or extended, the length of main road for which the County ratepayers still had to pay was excessive in relation to the length of road for which County Borough ratepayers became responsible. Not only the length of the road transferred in consequence of the alteration of area, but also the volume of traffic passing over it, must be taken into account.†

*Special Position of Certain Towns.*

699. The witnesses on behalf of Town Councils agreed that an estimate of the measure of benefit or burden resulting to the inhabitants of areas in which there were roads bearing an unusually heavy volume of traffic could better be estimated in relation to certain coastal towns than in relation to other areas.

Examples of the effect upon the inhabitants of the position of the town as the terminus of the journeys of a large number of vehicles used for purposes of recreation were discussed in evidence.

*Southport.*

700. The Town Clerk of Southport agreed that it was of importance to the town that the principal roads leading from other parts of the County into Southport should be properly maintained;

\* Collins, Q. 15,934-40 (IV, 973), Q. 15,948-55 (IV, 974).

† Jarratt, Q. 15,779-87 (IV, 960).

but he thought that even as between a County Borough of this type and the Administrative County concerned there was an exchange of benefit resulting from the proper maintenance of such roads, and that although the balance might not be perfect, it would not be practicable to throw an increased share of the whole burden on the ratepayers of the County Borough without doing serious injustice.†

*Blackpool.*

701. We were informed, on the other hand, that the position as between the Lancashire County Council and the County Borough Council of Blackpool was recognized as being one in which the greater part of the burden fell upon the ratepayers in the Administrative County. The result of the development of Blackpool since it was severed from the Administrative County in 1904 was that the principal roads leading into it were in constant need of improvement and were very expensive to maintain. The present volume of traffic upon them was far greater than had been contemplated when the financial adjustment following the constitution of the County Borough was made. Mr. Collins agreed that the amount payable under the Act of 1913 by the County Borough Council to the County Council in respect of the cost of the maintenance of main roads was not sufficient to recoup the County Council for the expenditure which they now had to incur in providing proper access by road to Blackpool.‡

702. The special circumstances of the town had, however, been recognized by the Town Council at the time of its constitution into a County Borough, when they agreed with the County Council that sums of £10,000 which the County Council had spent, and of £31,000 more which the County Council were committed to spending, on the widening and improvement of the two main roads leading into Blackpool, should be taken into account in the adjustment of the financial relations between the Administrative County and the Borough.§

As a result, the County Borough Council paid to the County Council the sum of £11,000 as their share of the liability incumbent upon the County Council at the time when the proposal that the Borough should be constituted into a County Borough took effect. We were given to understand that the County Council and the County Borough Council were considering further proposals under which the facilities for access by road to Blackpool would be improved, and that the cost would be shared between the County and the County Borough Council in a proportion agreed upon between themselves.||

† Jarratt, Q. 15,577-82 (IV, 947), M.80-2 (IV, 964), Q. 15,839 (IV, 966).

‡ Collins, Q. 15,920-7 (IV, 973).

§ See section 2(9) of the Local Government Board's Provisional Orders Confirmation (No. 13) Act, 1904.

|| Collins, Q. 15,928 (IV, 973).

*Eastbourne.*

703. The Town Clerk of Eastbourne discussed the same question in relation to the principal roads which run into that County Borough. The roads in question are those between Eastbourne and Seaford and Eastbourne and Hastings. The former road is already in process of reconstruction, and the part which lies within the County Borough boundaries has been widened and reconstructed by the Town Council at a total cost of about £29,000, half of which falls upon the ratepayers in the County Borough.†

704. The Town Council, while not admitting that the improvement of the roads was indispensable or of great benefit to the town, were, in the opinion of the Town Clerk, likely to be ready, if empowered to do so, to contribute a reasonable sum towards the reconstruction of both the roads in question, because they recognized that it was desirable that the approaches to Eastbourne should be made suitable for motor traffic. The Town Clerk agreed that when Eastbourne was severed from the Administrative County in 1910 the volume of traffic passing from London to Eastbourne across East Sussex was very much less than it was at the present time, and that if the severance had taken place now, the County Borough Council would have had to pay far more under the Act of 1913 to the County Council in respect of the cost of the maintenance of main roads than they had to pay at the time. He was also ready to admit that the motor traffic on such routes brought no advantage to the rural districts of East Sussex, but did bring at least some advantage to the inhabitants of Eastbourne. Further, the pleasure traffic which originated in Eastbourne and went over East Sussex roads (whether main roads or not) was increasing in volume.\*

*Torquay.*

705. The position in Torquay was described to us by Dr. Mitchell Winter, the Deputy Mayor of the Borough, as indicating that an undue proportion of the cost of the maintenance of the main roads in a large Administrative County predominantly rural in character may fall upon the ratepayers in a coastal town in which a large volume of traffic terminates. Torquay is a Non-County Borough in the Administrative County of Devonshire. Dr. Mitchell Winter submitted statistics which showed that there were in the Administrative County about 1,300 miles of main roads, and about 1,000 miles of classified roads, and that about one per cent. both of the main roads and of the classified roads lay within the Borough of Torquay. The contributions of ratepayers in the Borough towards the expenses of the County Council on the maintenance of main roads were about

† Fovargue, *M. 13A* (2) (V, 1168), Q. 19,306-10 (V, 1174).

\* Fovargue, *M. 13A* (4) (V, 1168), Q. 19,235-41 (V, 1172), Q. 19,300-4 (V, 1173), Q. 19,311-6 (V, 1174), Q. 19,333-50 (V, 1174).

ten per cent. of the total County expenses on this service, and during the four years from 1920 to 1923, Torquay ratepayers contributed on an average over £18,000 a year, a sum equivalent to a rate of 1s. 8d. in the £, towards the upkeep of main roads in the Administrative County but outside the Borough.¶ The Town Council complained that the County Council would not co-operate with them in widening the principal road leading into the town, which runs between Newton Abbot and Torquay, although this road and its condition were of vital importance to the inhabitants of the Borough, and the road was at the present moment in every respect unsuitable for the volume of traffic which it ought to carry.\*\*

706. The criticisms of the Town Council were directed, first, against the County Council, who would, they thought, not object to the constitution of the Borough into a County Borough if the question of liability for the cost of the maintenance of main roads were satisfactorily adjusted\*; and, secondly, against the present system by which liability for the cost of the maintenance of main roads in the Administrative County was thrown to an excessive degree upon the ratepayers in Non-County Boroughs.†

Dr. Mitchell Winter thought that the question of the incidence of the cost of this service was the first which should be taken into account in any proposal for the alteration of the existing system of local government,‡ and he contrasted the position of the County Borough Councils of Exeter and Plymouth with the position of the Torquay Town Council in this respect.§ He said that a fair distribution of the liability could probably be made on the lines of requiring the ratepayers in County Boroughs to continue to contribute to the cost of main roads in the Administrative County, and that although complete equity could not be expected, he would agree that the ratepayers of Torquay might well be asked to pay something towards the cost of the maintenance of roads which lay outside the Borough boundaries. But it would in his opinion be unfair, if the Borough were to be constituted into a County Borough, that the ratepayers should be asked to continue to pay any such amount as they now paid towards County expenses on this service.||

#### THE POSSIBILITY OF VOLUNTARY CONTRIBUTIONS BY COUNTY BOROUGH COUNCILS TOWARDS THE COST OF THE MAINTENANCE OF COUNTY ROADS.

707. It will be observed that in instances in which the measure of burden and benefit resulting to the inhabitants of an

¶ Winter, M. 20-24 (VI, 1230), Q. 20,621-39 (VI, 1232).

\*\* Winter, M. 27-8 (VI, 1231), Q. 20,646-7 (VI, 1232).

\* Winter, M. 30 (VI, 1231).

† Winter, M. 29 (VI, 1231).

‡ Winter, M. 32 (VI, 1231).

§ Winter, M. 29 (VI, 1231).

|| Winter, Q. 20,648-78 (VI, 1232).

Administrative County and of a County Borough from the volume of traffic on important roads of common interest to both sets of inhabitants can be ascertained with reasonable precision, there was a general disposition on the part of the witnesses whom we heard to recognize that the two Authorities may well enter into a voluntary agreement under which, subject to the approval of Parliament, those who know most of the facts settle for themselves the extent to which ratepayers in the County Borough can reasonably be asked to relieve the County ratepayers of some part of the burden of the cost of maintaining such roads.

708. In Blackpool the matter appears to be regarded by the County Borough Council as proper for amicable discussion and settlement with the County Council\*; in Eastbourne it is clear that a similar course might well be recommended by the County Borough Council, possibly even to the extent of making the whole cost of the maintenance of main roads throughout the geographical County an expense common to all ratepayers in the County†; and in other towns in which the facts of the situation are similar it seems not improbable that the Authorities concerned might agree upon satisfactory measures of equalisation.

#### *Special Position of Certain Towns.*

709. But other witnesses on behalf of Town Councils explained to us that it could not be inferred, from the possibility of securing financial co-operation between the Councils of certain towns and the County Councils concerned, that a general system of voluntary contribution by ratepayers in County Boroughs towards the cost of the maintenance of roads for which County Councils were responsible could equitably be proposed.

#### *Exeter.*

710. The Town Clerk of Exeter told us, for example, that the geographical position of the City made the circumstances affecting the use of the roads entirely different from those prevailing in such towns as Blackpool or Eastbourne. A number of important roads converged upon Exeter, and a large proportion of the traffic which came into the City did not stop there, but went on to other places outside the Administrative County, or passed through the City on its way from one place in the Administrative County to another. The City Council, in dealing with the roads and bridges in the City, considered that their first obligation was to provide for through traffic in such a way as to prevent congestion in the main streets of the City. There was, however, nothing in the circumstances of the traffic running into and through Exeter to justify the suggestion that the

\* Collins, Q. 15,928 (IV, 973).

† Fovargue, M. 13A (4) (V, 1168), Q. 19,196-9 (V, 1170), Q. 19,242-3 (V, 1172), Q. 19,287-99 (V, 1173), Q. 19,359-68 (V, 1175).

City ratepayers should take over any part of the burden of the County ratepayers arising from the cost of the maintenance of roads for which the County Council were responsible.‡

*Plymouth.*

711. In discussion of the same question, Mr. Ellis explained that the circumstances relating to traffic in Plymouth indicated that the position was different both from the position in the coastal towns previously mentioned and from the position in Exeter. A large amount of the traffic running into Plymouth terminated in the town, and the proportion of through traffic was therefore less than it was in the City of Exeter. But a large amount of traffic coming into Plymouth from other towns in Devonshire, or from places further off, passed through the County Borough on its way to Cornwall, and Mr. Ellis was not prepared to say without further examination of the problem that it would be reasonable to require Plymouth ratepayers to make any contribution to the cost of the maintenance of County roads.\*

*The Question of Imposing a Common Liability upon the Ratepayers in each Geographical County.*

712. Mr. Collins explained the difficulties which in his opinion would arise under any proposal that liability for the cost of the maintenance of main roads should be borne in common by the ratepayers in each geographical County, by saying that a scheme of this kind would leave as many inequalities between the inhabitants of a smaller number of local government areas, namely, the geographical Counties, as now existed between the inhabitants of the Administrative Counties, and of the County Boroughs, respectively. He thought that the incidence of the rates under such a scheme might fall more heavily upon ratepayers in rural Counties in which no County Borough was situated than upon the ratepayers in industrial areas, and that a calculation would show that a distribution of the burden on these lines would be no more fair than the present distribution.†

*The Adequacy of the Measure of Equalisation Effected through the Road Fund.*

713. The witnesses on behalf of Town Councils generally suggested that the distribution by the Minister of Transport of the proceeds of duties paid for motor licences out of the Road Fund was a fair method of redressing any inequity in the amounts of the contributions of ratepayers in County Boroughs and in Administrative Counties respectively towards the cost of

‡ Parry, Q. 20,931-8 (VI, 1246).

\* Ellis, Q. 21,303-17 (VI, 1266).

† Collins, Q. 15,956-66 (IV, 974).



maintenance of important roads.† The Town Clerk of Eastbourne mentioned, as an example of the operation of the Road Fund, that the amount collected in licence duties in Eastbourne was about £25,000 a year, of which £1,600 was paid by the County Borough Council themselves for their motor omnibuses, which did not run outside the Borough boundaries. The gross amount received by the Council in grants from the Road Fund was £5,000 or £6,000 a year, from which the sum of £1,600 must be deducted in order to calculate the amount of direct benefit which the Eastbourne ratepayers derived from the operation of the Fund.‡

### **Special Considerations relating to the Cost of the Provision of Higher Education.**

714. Mr. Fovargue, the Town Clerk of Eastbourne, suggested that the alterations resulting from the constitution or extension of a County Borough in the incidence upon the ratepayers in various local government areas of liability to contribute to the cost of the provision of higher education presented a similar, though less complex, problem to the problems relating to the cost of the maintenance of main roads, and that a solution might be found in the adoption of the principle that in each geographical County the County Council and the County Borough Councils should enter into an agreement under which the cost of the provision of higher education for the whole area should be met from a common fund to which the ratepayers both in the County Boroughs and in the Administrative County should contribute. If the schools at which higher education was provided were situated in the County Borough, as was usually the case, such an agreement would involve the payment of reasonable contributions by County ratepayers to the cost of the schools, and the admission by the County Borough Councils of the right of the County Council to be represented on the governing bodies of the schools. The advantage of such a system, as compared with the present system under which County Councils and County Borough Councils could enter into agreements, but maintained their separate financial responsibilities, would be that no preference would be given to children resident in the Administrative County or in the County Boroughs on the ground of their place of residence, either in regard to admission to the schools, or in regard to the fees payable for them as pupils. The nature of the present discrimination as between Eastbourne and East Sussex children with respect to fees was that a higher fee was charged for County pupils because their parents were not contributing to the rate for higher education purposes which the Eastbourne ratepayers had to pay for the maintenance of the schools.\*

† Fox, Q. 7756-7 (III 518); Jarratt M. 78-82 (IV, 964); Collins, Q. 15,962-6 (IV, 975).

‡ Fovargue, M. 11 (V, 1167), Q. 19,132-47 (V, 1169).

\* Fovargue, Q. 19,381-93 (V, 1176).

**CHAPTER X.—ON FINANCIAL ADJUSTMENTS CONSEQUENT UPON THE CONSTITUTION OR EXTENSION OF COUNTY BOROUGHs, WITH SPECIAL REFERENCE TO THE INCIDENCE OF THE COST OF THE MAINTENANCE OF MAIN ROADS.**

**SECTION 1.—THE CIRCUMSTANCES IN WHICH FINANCIAL ADJUSTMENTS ARE MADE, AND THEIR NATURE.**

715. The circumstances in which financial adjustments are made, and the nature of such adjustments, were described as follows in the memorandum prepared at our request jointly by Mr. Keen and Mr. Collins :\*

“ 1. The severance of an area of local government from the administrative unit by which it has previously been governed, whether it be on the formation of a new County Borough or the addition to an existing County Borough of a portion of an Administrative County or other transfer of area from one Authority to another, affects financially the ratepayers in their respective areas, and is, under various Acts of Parliament, and particularly the Local Government Act of 1888, made the subject of financial adjustment.

“ 2. While the severed area was governed by the County Council or other administrative Authority, it shared in the provision of buildings and institutions for the use or enjoyment of the whole of the the area of that Authority, its credit was pledged in the security offered to the investor who provided on loan the capital to defray the cost of permanent works, and its ratepayers were liable to be assessed in common with those of the rest of the area to rates necessary to meet the annual loan charges and to provide funds for the maintenance of all the administrative services.

“ 3. When severance took place it ceased to contribute to these common charges, while on the other hand the Authority of which it had formed a part ceased to be liable for the services which it had previously supplied in the severed area.

“ 4. Financial adjustment was designed to meet these circumstances, and the matters to be taken into consideration broadly divide themselves into three groups—(1) revenues from State Grants and Local Taxation Licences, Estate Duties and Customs and Excise Duties, (2) annual contributions to rates in relation to the expenditure in the severed area and in the remainder of the area of the administrative Authority, (3) properties and assets and the debts (if any) thereon. The method of adjustment is partly prescribed by law and partly established by general practice.”

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\* Keen and Collins, M. 1-4 (IV, 691).

## SECTION 2.—THE LAW AND PROCEDURE RELATING TO FINANCIAL ADJUSTMENTS BEFORE 1913.

### Provisions of the Local Government Act, 1888.

#### (a) PROVISIONS RELATING ONLY TO FINANCIAL ADJUSTMENTS BETWEEN COUNTY COUNCILS AND COUNTY BOROUGH COUNCILS.

716. These provisions are contained in section 32 of the Act, which relates specifically only to financial adjustments between County Councils and the Councils of those County Boroughs which were constituted by the Act.

The principles of the section were, however, applied in practice to the Councils of County Boroughs subsequently constituted or extended under the Act, first, in a few cases, by the Commissioners appointed under the Act to make financial adjustments (in default of agreement between the Local Authorities) between County and County Borough Councils; and, secondly, by the Local Authorities and others concerned with financial adjustments between such Councils necessitated by subsequent alterations of area.\*

The material portions of the section are as follows:—

Sub-section (1).—"An equitable adjustment respecting the distribution of the proceeds of the Local Taxation Licences and Probate Duty Grant, and respecting all other financial relations, if any, between each County, and each County Borough specified in the said Schedule† as being deemed for the purposes of this Act to be situate in that County, shall be made by agreement, within twelve months after the appointed day, between the Councils of each County and each Borough, and in default of any such agreement, by the Commissioners appointed under this Act; and such adjustment shall provide, in the case of any expenses which may in future be incurred by the County wholly or partly on behalf of the Borough for the liability of such Borough to contribute, and save as provided by this Act, any existing liability to contribute or to incur expense shall, after the appointed day, cease, and an equitable provision for such cessation shall be made in the adjustment."

Sub-section (3).—"In such adjustment regard shall be had to the existing property, debts and liabilities (if any) connected with the financial relations of the County and Borough, and to the consideration that the County is not to be placed in any worse financial position by reason of the Boroughs therein being constituted County Boroughs, and that a County Borough is not to be placed in a worse financial position than it would have been in if it had remained part of the County and had shared in the division of the sums received by a County in respect of the Licence Duties and Probate Duty Grant, as provided by this Act, and to the amount of benefit and value of the services which the Borough receives in return for existing contributions, if any, and to all the circumstances of each case which it appears equitable to consider. . . ."

\* Keen, Q. 11,299-301 (IV, 693), Q. 11,408-10 (IV, 700). See also the Report of the Commissioners [C. 6839, 1892], pages iii and iv.

† I.e., the Third Schedule.

(b) PROVISIONS RELATING GENERALLY TO FINANCIAL ADJUSTMENTS  
BETWEEN LOCAL AUTHORITIES AFFECTED BY THE ACT.

717. These provisions are contained in section 62 of the Act, and the material portion of the section is as follows :

Sub-section (1).—" Any Councils and other Authorities affected by this Act or by any Scheme, Order, or other thing made or done in pursuance of this Act, may from time to time make agreements for the purpose of adjusting any property, income, debts, liabilities, and expenses, so far as affected by this Act . . . . , and the agreement . . . . may provide for the transfer or retention of any property, debts, and liabilities, with or without any conditions, and for the joint use of any property, and for the transfer of any duties, and for payment by either party to the agreement in respect of property, debts, duties, and liabilities so transferred or retained, or of such joint user, and in respect of the salary, remuneration, or compensation payable to any officer or person, and that either by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Commissioners under this Act or the Local Government Board."

**Application of the Provisions of the Act of 1888 by the  
Commissioners Appointed under that Act.**

718. The proceedings of the Commissioners appointed under the Act, of whom Lord Derby was the Chairman, may conveniently be described in two parts, the first relating to the adjustment of Exchequer contributions, and the second relating to the adjustment of other financial relations between County and County Borough Councils on the severance from Administrative Counties of areas which became, or became part of, County Boroughs.

(a) AS TO EXCHEQUER CONTRIBUTIONS.

719. The Commissioners described the principles which they had adopted under this head in the following terms :

" *Local Taxation Licences and Probate Duty Grant.*—  
. . . . . We determined that an equitable adjustment of the distribution of the proceeds of the Local Taxation Licences and Probate Duty Grant between each County and the County Boroughs deemed to be therein situate would be effected by giving to such several Authorities in each year the annual amount received prior to the passing of the Local Government Act out of the grants discontinued after the passing of that Act, together with the amount payable under section 26 " (for costs of Union Officers), " and dividing the remainder in proportion to the rateable values of the County and Boroughs. We also determined that the figures of the various amounts should be fixed for a period of five years . . . . " \*

" *Local Taxation (Customs and Excise) Duties.*—In those cases in which terms of adjustment had been settled by agreement between the parties for the distribution of the

proceeds of the residue of the Local Taxation (Customs and Excise) Duties under section 1 (1) (b) of the Local Taxation (Customs and Excise) Act, 1890, we have adopted such terms, and in default of any such agreements we determined that such proceeds should be distributed between the County and Borough Councils . . . in the ratio of rateable values . . . .”†

(b) AS TO OTHER FINANCIAL RELATIONS.

720. The following paragraphs set out the decisions of the Commissioners under this head in application to the several local government services requiring to be dealt with.

*Cost of County Bridges.*

721. “In the matter of County bridges . . . the average annual expenditure of the County for the 10 years prior to the appointed day was to be ascertained and the Boroughs were to be deemed to have been liable to contribute towards such expenditure in proportion to the rateable values agreed or determined for the purposes of the adjustment and the County was to be deemed to have been liable to expend upon the County bridges within the Borough the average annual amount expended during the same period. The balance of the cost of the one liability over and above that of the other we declared to be the net annual liability for the cessation of which equitable provision was to be made, and we determined that 30 years’ purchase of such annual liability should be the equitable provision for the cessation thereof.”‡

*Cost of Main Roads.*

722. “With regard to main roads, we determined that the equitable provision for the cessation of liability should be based upon the same principles as had been laid down in the case of County bridges.”§

723. Mr. Keen and Mr. Collins explained as follows the circumstances in which the Commissioners determined that it was equitable to give thirty years’ purchase of the former annual liabilities in respect of these services|| :—

“11,375. (*Chairman*): Will you tell us why that figure was taken?—(*Mr. Keen*): Thirty years at that time was considered to be practically perpetuity, and it was assumed that the burden of maintaining the bridges was a burden which would remain on the area in perpetuity, and as the calculation of the burden was in that case based on ten years’ experience, for the reason that bridges do not very frequently come under serious repair, it was necessary to take a longer period to arrive at the average annual expenditure.

† C. 6839, page vi.

‡ C. 6839, page vii.

§ C. 6839, page vii.

|| Keen and Collins, Q. 11,375–8 (IV, 698).

"11,376. (*Sir Ryland Adkins*): When you say that thirty years was taken as an equivalent of perpetuity, what exactly do you mean?—At that time the value of money, as represented by Government loans and so on, was somewhere in the neighbourhood of three per cent.; three per cent. is equivalent to thirty-three and one-third years' purchase, and thirty years approximates to that period.

"11,377. So that the notion was, to translate it into terms of money, that if a County Borough previously paid a certain quota to the cost of bridges per annum and paid to the County thirty times that, the payment would enable the County, under the then conditions, to go on repairing those bridges in perpetuity?—Yes.

"11,378. That is to say, in perpetuity as far as that cost, or their proportion of the cost, was concerned?—Yes. (*Mr. Collins*): It is a standing item of capital which produces the income, that is to say, the capital sum always remained."

### *County Officers' Salaries.*

724. "As to the salaries of County Officers, towards which a County Borough had been liable to contribute before the appointed day, if such officers should in future render no service to the County Borough, the liability of the Borough to contribute would cease, and . . . the payment of a capital sum representing 15 years' purchase . . . should constitute an equitable provision for the cessation of liability in respect thereof."\*

725. Mr. Keen explained as follows the circumstances in which the Commissioners determined that it was equitable to give fifteen years' purchase of the former annual liabilities in respect of County officers' salaries†:—

"11,369. (*Sir Ryland Adkins*): May I ask what was the reason for fixing 15 years' purchase?—(*Mr. Keen*): 15 years' purchase was adopted, I think I may say without question, as being a sort of medium compromise on the number of years which an existing officer, or existing officers, on the average might be expected to remain in office.

"11,370. That is to say it depends on the limitation of an individual's existence?—Yes, it would have been too cumbersome to go into the questions of health and the conditions of life of every officer, and this was taken as a compromise.

"11,371. But the supposed figure, fifteen, having got in by reference to human frailty, retained its position, in all probability, as applied to buildings and other things, did it not?—Yes; ultimately it became applied to services, but not to buildings, I think."

\*                      \*                      \*                      \*

"11,412. . . . (*Mr. Keen*): I think the underlying principle there is this—that that would include such matters as administrative expenses, office rent, and various services, and that over a period it would be possible to make some economy—that is to say, that the burden would not be in perpetuity—and that there might be a change of officers, and so on, and it would be possible to make some alteration in the staff serving the Council and in the buildings.

"11,413. (*Colonel Williams*): Or the County might grow?—Well, that is a point which I hesitate to express an opinion about, because it appears to me, though I do not say it was not in contemplation—that it is a thing which certainly ought not to be in contemplation, because the County might have grown quite irrespective of any alteration of area.

\* C. 6839, page vii.

† Keen Q 11 369-71 (TV 698) Q 11 412-5 (TV 700)

"11,414. (*Chairman*): What happened was that they took 30 years as perpetuity and cut it in half?—Yes.

"11,415. It was a judgment of Solomon?—Yes."

Mr. Collins subsequently informed us that in practice the number of years' purchase given of these liabilities between 1889 and 1907 was sometimes only five or seven.\*

### *Miscellaneous Expenses.*

726. "Towards such expenses as would in future be incurred by the County wholly or partly on behalf of a County Borough, the Borough would remain liable to contribute. The amount of the continuing annual contribution was to be settled either by agreement or by our decision, and deducted from the amount of the average annual contribution made in respect of such expenses prior to the appointed day. Of the difference between such amounts, we determined that the payment of 15 years' purchase should constitute an equitable provision for the cessation of liability to contribute. We determined that the value of the contributions should be calculated upon an average of the three complete financial years prior to the 1st day of April, 1889; but in the case of County bridges we made a distinction, and based our awards upon a 10 years' average, upon the ground that, while the number of bridges had remained almost constant throughout that period, the annual expenditure upon them had in some cases varied greatly from year to year . . . "†

### *Cost of County Lunatic Asylums.*

727. "In cases . . . where it appeared to us expedient that one or other of the contributing Authorities should provide separate accommodation for its pauper lunatics, we made Orders directing that such separate accommodation should be provided, and proper compensation be made to the outgoing Authority for the loss of its share in the asylum. In determining the amount of such compensation we had regard to the amount of accommodation of which such Authority was being deprived."‡

### *County Property.*

728. "Several Boroughs having claimed a share in property which, by the operation of the Local Government Act, had become vested in the County Council, we declared that such claim existed only in respect of any share of beneficial interest or occupation of which the Boroughs had been deprived by the operation of that Act, and that no Borough had been

\* Collins, Q. 14,087–92 (IV, 873).

† C. 6839, page viii.

‡ C. 6839, page ix.

deprived of any such share in the case of the following and similar buildings, viz., County Hall, Courts of Justice and Offices, Judge's House or Lodgings, and Court Houses. With regard to militia storehouses and any other County property of which the rents were applied on account of the County Rate, we determined that such property should be either retained by the County at a valuation or realized within six months of the date of the award, and that the Council of any County Borough which had contributed to the cost of such property should receive a proportion of the ascertained value thereof, or of the proceeds of sale, calculated upon the respective rateable values of the County and County Borough agreed for the purposes of the adjustment . . . .”†

### **Provisions of the Local Government Act, 1894.**

729. These provisions are contained in section 68 of the Act, and are, we understand, identical in principle with those of section 62 of the Act of 1888. A number of financial adjustments were made under section 68 between County Councils, necessitated by the alterations in the areas of Administrative Counties arising out of the application of the provisions of section 36 of the Act, which required that in normal circumstances no parish or Rural District should continue to be situate partly in two or more Counties.‡

### **Procedure between 1888 and 1904.**

730. The principles adopted by the Commissioners appointed under the Act of 1888 were applied between that date and the year 1904 to financial adjustments made either under the Act of 1888, the Act of 1894, or under other statutes, such as the Acts relating to the relief of the poor, by which such adjustments were required to be made.§

Those principles were first questioned in two cases decided by the Courts in 1899. The circumstances of those cases, and the material point decided in them by the Courts, were as follows.

### **THE BUCKINGHAMSHIRE COUNTY COUNCIL AND HERTFORDSHIRE COUNTY COUNCIL CASE, 1899.**

731. In the arbitration between the Buckinghamshire and Hertfordshire County Councils, which related to an alteration of County boundaries necessitated by the 1894 Act, a special case was stated and came before the Divisional Court ([1899] Q.B. 515).

† C. 6839, page viii

‡ Keen and Collins, **M. 22-3** (IV, 702).

§ Keen and Collins, **Q. 11,275** (IV, 693), **M. 24** (IV, 702), **M. 28** (IV, 702), **Q. 11,442-6** (IV, 703), **Q. 11,471-2** (IV, 704).



The Divisional Court held that the arbitrator appointed by the Local Government Board under section 62 had power to award to the County of Buckinghamshire a sum of money in respect of the loss to that County of an area which contributed to expenditure on bridges and main roads without involving the County in any corresponding outlay on its own account.

**THE ROCHDALE UNION AND HASLINGDEN UNION CASE, 1899.**

732. Another case involving a similar question between the Guardians of Rochdale Union and the Guardians of Haslingden Union was pending at the same time, and a case stated by the arbitrator was similarly decided by the Divisional Court. On an appeal by the Haslingden Union, the Court of Appeal upheld the decision of the Divisional Court, which was that any consideration which bore on the question whether and to what extent the Union from which the area had been taken had been injured financially by the change would be properly taken into account in making an adjustment.

733. This was in February, 1899, and in view of this decision no appeal was made by the Hertfordshire County Council against the decision of the Divisional Court in the Buckinghamshire and Hertfordshire case, and adjustments continued to be made from time to time on the same lines, which were those applied by Lord Derby's Commission. Under these adjustments compensation for loss of rateable value was in effect given.

**Alteration of Procedure owing to the Decision in the Caterham Urban District Council and Godstone Rural District Council Case, 1904.**

734. The point decided by the House of Lords in this case, and the effect of the decision upon the pre-existing procedure, were as follows.

The case was decided by the Divisional Court and Court of Appeal, on the lines of the previous cases above referred to, in favour of the Godstone Rural District Council, and gave them compensation for loss of the contribution which ratepayers in the parish of Caterham, before the constitution of the parish into an Urban District, had been liable to make towards the highway expenses of the Godstone Rural District. The case was, however, carried to the House of Lords, and the decision, which was based on the construction to be placed on section 62 of the Local Government Act, 1888, was reversed.

The head note in the Law Reports is as follows\* :—

“ By Order of a County Council under section 57 of the Local Government Act, 1888, a Parish which was part of a Rural District was separated from that District and made an Urban District, and the Parish ceased to be rated for the highway expenses of the Rural District :—

“ Held, that the loss of this contribution was not a matter which required to be adjusted between the Rural District and the new Urban

\* [1904] A.C. 171.

District under section 62 of the Local Government Act, 1888. That section does not give compensation for any loss of profit. The word "income" in section 62 means existing income, and does not include income which may afterwards be derived from making rates.

"The decision of the Court of Appeal, [1903] 1 K.B. 554, reversed.  
*"In re Rochdale Union and Haslingden Union*, [1899] 1 Q.B. 540, and *Bucks C.C. and Herts C.C.*, [1899] 1 Q.B. 515, overruled on the above point."

### **Adoption of the Principle of this Decision in the West Hartlepool County Borough Council and Durham County Council Case, 1907.**

735. The point decided by the House of Lords in this case was as follows.

The fuller provisions of section 32 of the Act of 1888, and the doubt whether that section gave a right to compensation, although section 62 did not, were material points arising in a financial adjustment between the County Council of Durham and the Council of the newly constituted County Borough of West Hartlepool; this case was pending at the time the decision was given in the Godstone and Caterham case, and an agreement between the Durham County Council and the County Borough Council of West Hartlepool, subject to reference of certain points to the arbitration of Sir Hugh Owen, was, on a special case stated by Sir Hugh Owen, carried through the Courts up to the House of Lords.

The head note to this case in the Law Reports is as follows\* :—

"When a new County Borough is created by separation of the Borough from the County the financial adjustment between the Borough and the County must not include compensation from either to the other for the loss of a contributing area.

"Upon the true construction of the Local Government Act, 1888, the meaning of section 32 is not that the entire financial position of the County and the County Borough is to remain the same relatively to each other, but that it is to be so as regards the distribution of the Exchequer Contributions; and that in adjusting the financial relations between the two bodies an equitable provision shall be made for imposing upon each its fair share of the burden, which was a joint burden, and is no longer to be joint.

"Decisions of Channell J., [1905] 2 K.B. 340, and of the Court of Appeal, [1906] 2 K.B. 186, reversed.

"The reasoning of *Caterham Urban District Council v. Godstone Rural District Council*, [1904] A.C. 171, adopted and applied."

### **Procedure Subsequent to the Foregoing Decisions.**

#### **SPECIAL STATUTORY PROVISIONS AFFECTING PARTICULAR LOCAL AUTHORITIES.**

736. In three cases subsequent to the decision in the Caterham and Godstone case, and in one case subsequent to

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\* [1907] A.C. 246.

the decision in the West Hartlepool case, Parliament made provision in Local or Provisional Order Confirmation Acts for payments which, in the absence of statutory provision, could not have been made consistently with those decisions.

The Acts containing such provision were the Acts authorizing the extension of the boundaries of the County Boroughs of Bristol, Manchester, and Portsmouth, passed in 1904, and the Act authorizing the constitution of Eastbourne into a County Borough, and the extension of its boundaries, passed in 1910.\*

737. The Bristol Act of 1904 (4 Ed. 7 C. ccxxiii s. 28), under which a part of the Barton Regis Rural District and the whole of the Horfield Urban District were transferred to the City of Bristol, provided as follows:—

Section 28 (3).—“In any such adjustment provision shall be made for the payment by the Corporation to the County Council or by the County Council to the Corporation as occasion shall require of such compensation as shall be fair and reasonable for (a) any loss sustained by the County Council in respect of the excess of contributions over expenditure from and in the added area prior to the commencement of this Act, or (b) for any loss sustained by the Corporation in respect of the excess of expenditure over contributions in and from the added area prior to the commencement of this Act.”

738. The section in the Portsmouth Act of 1904 (4 Ed. 7 C. cxv s. 2) gave

“such compensation as shall be fair and reasonable for any loss of rateable value rights or income from rating or from contributions in lieu of rating caused to such Authority by the separation of the added area from the District or Union of the Authority affected.”†

739. In the Manchester and Eastbourne‡ cases agreements were entered into for payment of lump sums by way of comprehensive adjustment.

### **Appointment of the Joint Select Committee of 1911.**

740. In the course of the proceedings in Parliament in 1911 on the Bill to confirm the Provisional Order for the extension of the boundaries of Birmingham, it was felt by Parliament that the time had come to make further inquiry into the law and procedure as they stood after the decisions of the House of Lords in the Caterham and Godstone case and in the West Hartlepool case, and a Joint Select Committee under the Chairmanship of the Duke of Devonshire was appointed for this purpose.

It was provided in the Act confirming the Order for the extension of Birmingham that unless the consequential financial adjustments were made (as they subsequently were) by agreement between the Local Authorities concerned, they should be

\* Keen and Collins, *M.* 34 (IV, 702).

† Keen, *Q.* 11,758-62 (IV, 721).

‡ Fovargue, *M.* 4-7 (V, 1165), *Q.* 19,064-7 (V, 1166), *Q.* 19,083 (V, 1166), *Q.* 19,091-100 (V, 1166), *Q.* 19,229-39 (V, 1171), *Q.* 19,244-50 (V, 1172).

made in accordance with any amendments of the existing law recommended by the Joint Select Committee.\*

### Recommendations of the Joint Select Committee of 1911.

741. The Joint Select Committee reported on the 8th August, 1911,† and made the following recommendations as to (a) the adjustment of Exchequer contributions, and (b) other financial relations requiring adjustment.

#### (a) AS TO EXCHEQUER CONTRIBUTIONS.

742. The Committee recited section 23 of the Act of 1888, which provides that all sums carried to the Exchequer Contribution Account shall be applied, first, in payment of costs; secondly, in payment of the grant under section 24 in substitution for discontinued local grants; thirdly, in paying the grant for Union Officers under section 26; and fourthly, in repaying to the General County Account the costs for which the whole area of the County is liable to contribute, and made the following statement:—

“ It is clear from this that the cost of main roads was not one of the heads which it was contemplated by the Act should be included in what are known as priority payments.

“ The Commissioners under the Act, however, took the view that half the cost of main roads should be the next charge upon the surplus of the Exchequer Contribution Account after satisfying the priority payments. This is made clear from the Report of the Commissioners under the paragraph headed County Borough Extensions.

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“ This practice seems to have been followed in the adjustments that have been made subsequently, but apparently rests on no legal basis, and it is obvious that if the rules laid down in section 23 of the Act are to be followed, the cost of the main roads in a County would be entitled to be defrayed out of the surplus of the Exchequer Contribution Account after the priority payments had been satisfied out of it, in common with all other costs of administration which were a general charge upon the County Fund.

“ 13. The Committee are of the opinion that in future half the cost of main roads should be a first charge upon the surplus of the Exchequer Contribution Account after the priority charges set out in section 23 of the Act of 1888 have been satisfied, and that this first charge should be calculated upon the average sum over a period of five years

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\* Keen and Collins, Q. 11,484-504 (IV, 706).

† Report from the Joint Select Committee of the House of Lords and the House of Commons on the Local Government Acts, 1888 and 1894, and the Local Government (Scotland) Acts, 1889 and 1894 (Financial Adjustments).—[H.C. 246 of 1911].

expended by the County Council and the separated area taken together, to be determined by the arbitrator; their respective shares being credited to the County Council and the Borough Council to which the separated area is added. Should such surplus of the Exchequer Contribution be insufficient to meet the total of this average expenditure, the amounts to be received by the County Council and the separated area should be reduced in proportion to their respective shares calculated as aforesaid.”\*

743. The Committee then dealt with the question which had been raised whether the surplus (if any) of the Exchequer Contribution Account then remaining should be divided in the proportions of rateable or assessable value, and determined that the division should be based upon rateable value.

They also decided that Customs and Excise Duties should continue to be distributed upon the basis of rateable value.

(b) AS TO OTHER FINANCIAL RELATIONS.

*Administrative Expenses, including Cost of Main Roads and County Bridges.*

744. “ 10. The Committee are of opinion that while it would not be just to give to either party compensation for loss of rateable area as such, yet each party before the arbitrator should be entitled to produce evidence to prove that in carrying out the administration of their areas and maintaining their roads and bridges, they would, on the figures as they stand at the appointed day, have legitimately imposed upon them an increased burden, or a burden which would, in the judgment of the arbitrator, be thrown upon them at some future time in reference to some particular head of administration in consequence of the taking away of part of the area, and that compensation should be paid to the party having to bear such increased burden in each case in which it was proved to exist.”†

*Special Considerations as to Main Roads.*

745. “ It was alleged in evidence that certain Counties did not act equitably in declaring certain roads to be main roads, or in refraining from making certain roads main roads which ought equitably to have been so treated.

“ There appears to be some ground for this allegation, and it was urged before the Committee that this matter should be taken into consideration before the arbitrator.

“ The Committee are of opinion that some central Authority should have the duty of deciding what roads ought to be considered main roads. And as in their opinion this would require legislation, they think that in the interval

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\* H.C. 246 of 1911, paragraphs 12 and 13.

† H.C. 246 of 1911, paragraph 10.

this question of main roads should be taken into consideration and decided by the arbitrator and compensation paid where a loss is shown to have occurred. They are further of opinion that having in view the powers of such a central Authority which might involve material alteration in existing conditions, it is desirable that compensation in respect of roads should be paid as an annuity and not as a lump sum.

“ It will be seen . . . that the Committee have come to the conclusion that one half of the cost of the main roads should be a priority payment, ranking after those already so classed.\* In some Counties, however, the balance of the Exchequer Contribution is not sufficient to meet half the cost of the maintenance of main roads. The Committee consider that for the ascertainment of compensation (the deduction on account of the Exchequer Contribution having been made), the difference between the annual amount of the rest of the maintenance of the main roads in the area added to the Borough and the rateable share of the said area in the rest of the maintenance of the main roads in the County, should be the annual liability for the cessation of which equitable provision should be made. Both these calculations should be made on a five years' average.”†

*County Investments and Property.*

746. “The Committee consider that the same principles should apply with regard to County investments, and the beneficial user of County property.”‡

*Ascertainment of Compensation.*

747. “11. The ascertainment of the compensation presents features of difficulty. But the Committee consider that on the whole the fairer plan would be to fix a maximum (which they suggest should be 15 years' purchase) beyond which the arbitrator should in no case go, and to allow him to adapt to the circumstances of the particular case a multiple of a year's purchase of the yearly loss that may be proved on each head of claim.”§

APPLICATION OF THE FOREGOING RECOMMENDATIONS TO FINANCIAL  
ADJUSTMENTS BETWEEN (a) URBAN AND RURAL DISTRICT  
COUNCILS, AND (b) POOR LAW AUTHORITIES.

748. The Committee further reported that the principles for payment and ascertainment of compensation in cases of Urban

\* This refers to the grants under section 24 in lieu of discontinued grants, and the grant under section 26 for Union Officers, which Lord Derby's Commission made a charge on the proceeds of Local Taxation Licences and Probate Duty Grant carried to the Exchequer Contribution Account.

† H.C. 246 of 1911, paragraph 10.

‡ H.C. 246 of 1911, paragraph 10.

§ H. C. 246 of 1911, paragraph 11.

and Rural District Councils should be the same as above,<sup>†</sup> but that as there is no grant out of the Exchequer contribution towards the cost of district roads, the contribution of the area to the annual cost of all the district roads, after excluding any contribution by the County Council, as compared with the annual cost of the district roads in the area taken out of the Rural District, after excluding any contribution by the County Council, should be the annual liability for the cessation of which equitable provision was to be made. With regard to district debts, they stated that

“the principles to be followed should be to divide the debt according to the proportion of the rateable value of that part which was left of the old area after the severance, and that part which was taken from it and absorbed into some other unit, each part taking over its own share.”

749. The Committee also stated that they were of opinion that the conclusions at which they had arrived should apply equally in any alteration that takes place in the boundaries of Poor Law Unions.<sup>‡</sup>

### **SECTION 3.—THE LAW AND PROCEDURE RELATING TO FINANCIAL ADJUSTMENTS AFTER 1913.**

#### **Statutory Effect Given to the Recommendations of the Joint Select Committee by the Local Government (Adjustments) Act, 1913.**

750. The Act of 1913 was passed for the purpose of giving effect to the recommendations of the Joint Select Committee of 1911. Its provisions fall into two parts, the first relating to the adjustment of Exchequer contributions, and the second relating to the adjustment of other financial relations, on any adjustment under section 32 or section 62 of the Local Government Act, 1888, or section 68 of the Local Government Act, 1894.

##### **(a) AS TO EXCHEQUER CONTRIBUTIONS.**

751. Under this head the Act provides that any adjustment shall be carried out in accordance with the Rules contained in Part I of the Schedule to the Act. These Rules give effect to the recommendations of the Joint Select Committee set out above (paragraph 742).

##### **(b) AS TO OTHER FINANCIAL RELATIONS.**

752. Under this head the Act provides (section 1 (1) (b)) that “provision shall be made for the payment to any Authority of such sum as seems equitable in accordance with the Rules contained in Part II of the Schedule to this Act, in respect of any increase of burden which will properly be thrown on the ratepayers of the area of that

<sup>†</sup> H. C. 246 of 1911, paragraph 15.

<sup>‡</sup> H. C. 246 of 1911, paragraph 16.

Authority in meeting the cost incurred by that Authority in the execution of any of their powers and duties as a consequence of any alteration of boundaries or other change in relation to which the adjustment takes place."

753. The Rules contained in Part II of the Schedule are as follows :

*" Rules for Determining Sum to be paid in Respect of Increase of Burden on Ratepayers.*

" (1) Regard shall be had to—

" (a) The difference between the burden on the ratepayers which will properly be incurred by the Authority in meeting the cost of executing any of their powers and duties and the burden on the ratepayers which would properly have been incurred by the Authority in meeting such cost had no alteration of boundaries or other change taken place;

" (b) The length of time during which the increase of burden may be expected to continue:

" Provided that no alteration of income in consequence of an apportionment under Part I of the Schedule shall be taken into account.\*

" (2) The sum payable to any Authority in respect of the increase of burden shall not exceed, or, if payable by instalments or by way of annuity, the capitalised value of the instalments or annuity shall not exceed, the average annual increase of burden multiplied by fifteen.†

" (3) Any sum payable in respect of the cost of the maintenance of main roads shall be payable by way of annuity.‡"

### The Present Procedure.

754. Financial adjustments are now made under the law as settled by the Act of 1913.

An adjustment between a County Council and a County Borough Council is made under sections 32 and 62 of the Local Government Act, 1888, with which the Act of 1913 is in effect incorporated.§

\* As to the meaning of this provision *see* Keen, M. 34 (IV, 734), Q. 11,546 (IV, 709), Q. 11,876 (IV, 736), Q. 11,884 (IV, 736), Q. 15,505-29 (IV, 942); Collins, Q. 14,042-57 (IV, 869).

† As to the meaning of this provision *see* Keen, Q. 11,829-41 (IV, 732).

‡ For the explanation of this provision *see* Keen, Q. 11,842-8 (IV, 733).

§ Other adjustments are made under section 62 of the Act of 1888, and/or section 68 of the Local Government Act, 1894, with which the Local Government (Adjustments) Act, 1913, is in effect incorporated. The procedure is similar in all these cases except that in the case of County Boroughs, but not in the case of other adjustments, there is an adjustment of Exchequer Contribution Account.

Other adjustments to which the provisions of the Act of 1913 apply include extensions of Non-County Boroughs made by Provisional Order of the Minister of Health confirmed by Act of Parliament, under which the whole or portions of Urban and/or Rural Districts may be added to the Borough. They also include the incorporation of Municipal Boroughs by Royal Charter, where the area taken may have constituted the whole or parts of former Urban or Rural Districts. They also include cases of alterations of areas effected by Orders of County Councils on the constitution of Urban Districts out of parts of Rural Districts, or additions to existing Urban Districts. In these cases the Order of the County Council is subject to confirmation by the Minister of Health : Keen and Collins, M. 50-1 (IV, 712).



# **Preparation of Statements for the Purposes of a Financial Adjustment between a County Council and a County Borough Council.**

## (a) AS TO EXCHEQUER CONTRIBUTIONS.

755. The Exchequer Contribution Account is one into which are paid the shares of Local Taxation Licences and Estate Duties and of Customs and Excise Duties. These shares are to be applied to specified purposes set out in section 23 of the Local Government Act, 1888.‡

756. It is usually agreed that the revenues received from the Estate Duties and Local Taxation Licences by the County Council and the County Borough Council respectively shall be pooled each year, and that there shall be appropriated out of the pool to the Borough and County Council respectively agreed sums in respect of the priority payments referred to in sections 24 and 26 of the Act of 1888 (calculated on the average of 5 years before the appointed day) together with agreed sums representing half the cost of maintenance of main roads incurred in the Borough, or area transferred to the Borough, and in the rest of the County respectively, calculated on the average of five years before the appointed day. It is further agreed that any surplus then remaining shall be divided between the Borough and the County in agreed fractions proportionate to the respective rateable values of the Borough or the area added to the Borough, and the rest of the County, as at the appointed day, and if there be no surplus but a deficiency, that the deficiency be met proportionately by reducing the respective shares calculated as above in respect of the half cost of main roads, and, if necessary, of priority payments.\*

757. The basis for division of the Exchequer contribution revenues in each year being provided for on the above lines in the adjustment, the practice is for the County Accountant after the close of the financial year to prepare and submit for agreement to the Borough a statement showing the combined revenues of the County and the Borough in respect of the Licence and Estate Duties for the year to be pooled, and the distribution thereof under the terms agreed as above, and showing the balance payable to or by the Borough after taking into account the revenues forming part of the pool that had been in fact collected or received by the Borough.†

758. The Customs and Excise Duties which are applicable to purposes of higher education, and are now fixed sums under the provisions of the Revenue Act, 1911, are divided annually in the proportions of the agreed rateable values as on the appointed day of the Borough and/or the area transferred to the Borough, and the remainder of the County.§

‡ Keen and Collins, M. 53 (IV, 712).

\* Keen and Collins, M. 54 (IV, 712).

† Keen and Collins, M. 56 (IV, 713).

§ Keen and Collins, M. 57 (IV, 713).

*Special Considerations as to Main Roads.*

759. Mr. Keen and Mr. Collins mentioned that in no case settled since the passing of the Act of 1913 (so far as is known) has any claim yet come before an arbitrator under the provisions contained in that Act by which in the financial adjustment account may be taken of failure on the part of the County Council to declare suitable roads as main roads, or improper declaration as main roads of roads not entitled to be so declared. §

(b) AS TO OTHER FINANCIAL RELATIONS.

*Capital Assets and Liabilities.*

760. The assets and the capital liabilities or loan debt to be considered under this heading are in relation to such items as Court Houses, police stations, schools, hospitals, asylums, houses, land, investments, trading concerns, bridges, street improvements and many others. Some of these are considered to be subjects for adjustment, and some not, on the lines laid down by Lord Derby's Commission; for instance, Court Houses and certain other non-revenue producing properties may or may not be proper subjects of adjustment, and no definite line of demarcation has been laid down, but each case has to be considered on its merits.\*

Provisional Orders often direct that certain specific assets shall vest in and be transferred to the Borough Council subject to any liabilities attaching thereto.†

761. The particulars of cost, debt originally contracted, outstanding debt, and any other information necessary for consideration of the value of the asset, are usually set out in a schedule to the claim. The basis of value claimed is sometimes cost, sometimes replacement value; the basis of division is sometimes user share of which the severed area has been deprived, sometimes a proportion based on the respective populations of the areas affected, and sometimes a proportion based upon the assessable values of the areas affected. Everything depends on the circumstances of each case.‡

Usually the Borough Council will claim a share of such of the total County assets as are considered to be subject to adjustment, and against this will be set the assets situate in, or taken over in connexion with, the severed area.||

762. The adjustment of the debt is usually claimed either on assessable value, or on the basis adopted in respect of the adjust-

§ Keen and Collins, M. 55 (IV, 713); see also Keen, Q. 11,788-93 (IV, 723); Collins, Q. 16,078-87 (IV, 981).

\* Keen and Collins, M. 65 (IV, 713).

† Keen and Collins, M. 66 (IV, 713).

‡ Keen and Collins, M. 67 (IV, 713).

|| Keen and Collins, M. 68 (IV, 714).

ment of the asset where the debt has been incurred for the acquisition of a particular asset to be shared.||

Questions sometimes arise on the point whether certain debts, in view of the purposes for which they have been contracted, are properly subjects of adjustment or not.¶

763. The net amount resulting from the adjustment of capital assets and liabilities is usually claimed as a capital sum payable by the County Council to the Borough Council, or by the Borough Council to the County Council, as the case may be.\*

764. In cases in which arrangements are come to for joint user of any institution, or for the continuance by the County Council of a service to the Borough, such for instance as police or provision of lunatic asylums, consideration has to be given to the effect which this may have on the adjustment of assets and liabilities, the arrangements in such cases being usually of temporary duration only, or subject to determination on notice.†

#### *Cash Balances and Revenue Assets and Liabilities.*

765. This part of the adjustment is usually dealt with in a schedule setting out the matters current at the appointed day, such as cash balances, revenue debts and credits, rate precepts outstanding, etc., and is not a matter of much difficulty. It also brings into account the value of loose materials and other assets acquired out of revenue.‡

The ultimate balance arrived at in favour of, or against, the Borough is settled as a capital sum.§

#### *Increase of Burden.*

766. A claim in respect of future burden necessarily involves a certain amount of estimate and assumption, and the form in which it is rendered is dependent upon the circumstances of the particular case. Usually, however, separate claims are prepared in respect of :—

- (a) General County Purposes,
- (b) Police,
- (c) Higher education,
- (d) Elementary education,

and sometimes other separate departments of expenditure.\*\*

767. The claim usually sets out, first, a preliminary table of statistics of the areas affected as to population, rateable value, etc.; secondly, tables containing detailed analyses of the income and expenditure for a series of years in respect of each of the

|| Keen and Collins, M. 69 (IV, 714).

¶ Keen and Collins, M. 70 (IV, 714).

\* Keen and Collins, M. 71 (IV, 714).

† Keen and Collins, M. 72 (IV, 714).

‡ Keen and Collins, M. 73 (IV, 714).

§ Keen and Collins, M. 74 (IV, 714).

\*\* Keen and Collins, M. 59 (IV, 713).

accounts of the County Council as above set out, the period usually including at least three pre-war years, and each subsequent year down to that last preceding the appointed day. These tables are given in order to furnish a means for the consideration of what in respect of each item of expenditure would be a fair method of arriving at normal expenditure for the purpose of the adjustment of burden.¶

768. Then follows, thirdly, the burden claim in respect of each of the separate accounts, and in this the normal expenditure and income arrived at from a consideration of the figures in the preceding table and from other relevant facts are set out, and the rateable contribution of the severed area to such expenditure after deducting the rateable share of income. The amounts thus arrived at are submitted as representing the loss of contribution sustained by the County Council from the severed area. Against this is set the estimated saving in expenditure by the County Council after the severance in respect of the administration of the severed area under the same items, *e.g.*, (a) the cost of main roads in the transferred area after deducting the proportion of such cost which is borne by the Exchequer Contribution Account as previously stated, (b) any savings in salaries and administration expenses by reduction of staffs or of salaries of officials, (c) reduction in hospital charges by removal of patients from the severed area, (d) reduction of police expenditure in cases in which the Borough has a separate police force and will police the severed area, (e) reduction in education expenses, both higher and elementary, in respect of schools and other educational institutions in the severed area and contributions to secondary schools in the severed area after allowing for any grants received, (f) any other savings.\*

769. Deducting the net savings from the net loss of contributions, the annual burden is computed and capitalized at such number of years, not exceeding fifteen, as is considered suitable having regard to the permanence or otherwise of the burden in the case of the respective items of which it is composed. Where the whole or a part is claimed by way of annuity, the amount and period of the annuity corresponding with the burden is shown.†

770. Innumerable questions inevitably arise, according to the circumstances of each case, upon the items constituting a burden claim, both as to the expenditure to be brought into account and the savings that will be effected, and as to the period or permanence of the burden.‡

In some cases a claim may be made by the Borough Council for a set-off where there will in any respect be a burden upon

¶ Keen and Collins, M. 60 (IV, 713).

\* Keen and Collins, M. 61 (IV, 713).

† Keen and Collins, M. 62 (IV, 713).

‡ Keen and Collins, M. 63 (IV, 713).

the Borough in consequence of the administration of, or addition to, its area. This also involves controversy.§

*Compensation to Officers.*

771. A separate claim may arise for compensation payable by the County Borough Council to officers of the County Council who are displaced, or whose remuneration is reduced, in consequence of the reduction of area or alteration of duties consequent thereon. In this claim regard is usually had to the amount of the annual loss sustained by the officer and to the terms of service and age of the officer, and unless otherwise agreed or specially provided, the claim is made under section 120 of the Local Government Act, 1888, which provides that it shall not exceed the amount which under the Acts and rules relating to the Civil Service is paid to a person on abolition of office.\*

**Preparation of Summary of Claim and Subsequent Action.**

772. The claim is finally summarized under the foregoing heads of Exchequer contribution adjustment, adjustment of capital assets and liabilities, revenue assets and liabilities, and burden claim; and the net amount payable or receivable is shewn, and may be claimed as a net capital sum or as an annuity, or partly in one way and partly in the other.†

Interest is claimed as from the appointed day or from some later date, and the claim is then rendered, and becomes the subject of investigation and negotiations, leading either to settlement by negotiation or by arbitration.‡

773. After settlement of the claim any capital sum payable by one Authority to the other is usually raised by loan for such period as may be sanctioned by the Minister of Health, and any amount received by an Authority is applied in such manner as may be approved by the Minister, *e.g.*, by investing and applying the income as revenue, or by paying off debts having suitable periods to run, or by expenditure for capital purposes in lieu of borrowing.¶

**Power to Revise the Adjustment at Quinquennial Intervals.**

774. Section 32 (6) of the Local Government Act, 1888, provides that at any time after the end of five years from the date of an agreement or award adjusting the financial relations of a County Council and a County Borough Council, if either Council satisfy the Minister of Health that the adjustment has become inequitable, and that the two Authorities are unable to agree on a new adjustment, an arbitrator appointed by the

§ Keen and Collins, *M.* 64 (IV, 713).

\* Keen and Collins, *M.* 78 (IV, 714); cf. Collins, *M.* 50 (IV, 993).

† Keen and Collins, *M.* 75 (IV, 714).

‡ Keen and Collins, *M.* 76 (IV, 714).

¶ Keen and Collins, *M.* 77 (IV, 714).

Minister shall proceed to make a new equitable adjustment between the two Authorities; and that any new adjustment made by agreement or by the award of an arbitrator may again be altered either by agreement or by arbitration after a further period of five years.

The provisions of the section apply to the whole of any financial adjustment between a County Council and a County Borough Council; but we were informed that they had been put into operation only for the purpose of securing the revision of those parts of certain adjustments which related to Exchequer contributions; and that the circumstances which Parliament had in view in enabling a revision to be made were understood to be that such fluctuations might occur in assessable values and in the proceeds of Estate Duty and Local Taxation Licences as to make the original adjustment under the head of Exchequer contributions inequitable.\*

### **Methods of Settlement of Financial Adjustments.**

#### **(a) BY AGREEMENT.**

775. We were informed that financial adjustments are usually settled by agreement between the Local Authorities concerned; and that adjustments which go to arbitration do not go as a whole, but for the decision of the arbitrator on outstanding points upon which the Local Authorities find themselves unable to agree.†

Mr. Collins thought that only one adjustment in seven goes to arbitration on any point.‡

#### **(b) BY ARBITRATION.**

776. So far as the Local Authorities concerned are unable to settle a financial adjustment by agreement, the matters in dispute are referred to an arbitrator for his award.

#### *Qualifications of Arbitrators.*

777. The arbitrator appointed for this purpose is, we understand, almost invariably one of Your Majesty's counsel learned in the law.§

#### *Powers of Arbitrators.*

778. The Local Authorities concerned may by agreement refer any question at issue between them to the arbitrator for decision by him. If they do not agree to refer any such questions to him, it is not clear to what extent his powers (*e.g.*, as to the

\* Keen and Collins, M. 58 (IV, 713); Keen, Q. 11,622-6 (IV, 715).

† Keen and Collins, Q. 11,292-7 (IV, 693); but see Keen, Q. 12,182-6 (IV, 748).

‡ Collins, Q. 14,093-4 (IV, 873), Q. 16,111 (IV, 983).

§ Keen and Collins, Q. 11,283-5 (IV, 693); Keen, Q. 11,813-5 (IV, 732).

transfer of property between the Authorities) are identical with those of Local Authorities who settle the adjustment by agreement between themselves. §

*Effect of the Decisions of Arbitrators.*

779. The decision of one arbitrator is not binding upon another arbitrator. It is agreed that the effect of the Act of 1913 in laying down the principles which must be followed in making an adjustment has been to limit the extent to which one award of an arbitrator can differ from another in similar circumstances; but Mr. Keen and Mr. Collins did not agree on the question whether awards continued to be materially inconsistent with each other.\*

*Effect of the Decisions of Courts of Law.*

780. A decision of the Courts on questions relating to an adjustment raised by a special case stated by the arbitrator is, of course, binding in all cases which can be brought within the decision. But the number of questions so decided is small. †

**SECTION 4.—MATTERS NOT INVOLVING DIFFERENCES OF PRINCIPLE BETWEEN LOCAL AUTHORITIES.**

781. It will be convenient in summarizing the critical evidence taken before us as to the operation of the existing law and procedure relating to financial adjustments to deal first with those matters about which Local Authorities do not differ in principle. We shall draw attention under this head to criticisms of the operation of the existing law and procedure made in evidence on points of detail or practice, but it was not suggested that we ought to find means of meeting such criticisms, and we think that we need not do more than mention them briefly.

**The Methods of Settlement of Financial Adjustments.**

782. The general view of the witnesses as regards the methods of settlement of financial adjustments, that is, either by agreement between the Local Authorities concerned, or by arbitration, was that the existing methods are satisfactory. ‡

Such criticisms as appeared to be directed to these methods were in substance based rather upon other characteristics of the existing law and procedure, and their effect upon the methods. It was said, for example, on behalf of County Councils :

§ Keen and Collins, Q. 11,348-50 (IV, 697).

\* Keen and Collins, Q. 11,280-2 (IV, 693), Q. 11,285-91 (IV, 693); cf. Collins, Q. 16,104-10 (IV, 983).

† Keen and Collins, Q. 11,280-2 (IV, 693).

‡ Keen and Collins, Q. 11,639-43 (IV, 715).

(a) That County Councils agree to make an adjustment on unfavourable terms in order to avoid the expense of going to arbitration and the risk of an unfavourable award†; and

(b) That the process of adjustment is complex to a degree which, having regard to the uncertainty of the result, should be reckoned as a *prima facie* reason against taking the action which necessitates an adjustment.‡

783. On this point, a discussion which began in reference to the preparation of statements for the purpose of adjusting Exchequer contributions, but proceeded to the process of adjustment as a whole, exhibited a considerable divergence of view between Mr. Keen and Mr. Collins. Its terms were as follows:\*

"11,619. (*Mr. Keen*) .....But that again is subject to a good deal of difficulty, because, having got half a dozen different alterations of County areas, you get each time an alteration of these fractions which had previously been fixed, and you get half a dozen different pools, which you have to construct out of the same fund in order to settle with each of the half dozen different Boroughs. (*Mr. Collins*): That is mostly a matter of arithmetic, in my submission, and there is very little difficulty in practice in settling the shares in the Exchequer Grant.

"11,620. (*Chairman*): I do not think that Mr. Keen suggested that there was any great difficulty?—(*Mr. Keen*): There is no great difficulty, but it is a highly complicated matter, and I mention it rather to emphasize the fact that the financial adjustment is a circumstance that should not be lost sight of in considering the merits of a change of area. It involves a considerable amount of uncertainty.

"11,621. Your suggestion is that that is an argument against an extension?—Yes. (*Mr. Collins*): That I strongly oppose. These things sound most complicated, as most domestic things would if technically stated. Supposing you saw a series of diagrams and explanations about how you tied your necktie, it would look horribly complicated, but in practice it is very easy; we take these things in our stride. (*Mr. Keen*): No, I very much differ. I think it may be well to remind the Commission that Sir Hugh Owen was responsible for a very large number of adjustments; he was arbitrator in a great many cases, and I think at the time of his death he had a dozen or more unsettled. He could not make up his mind about them, the whole matter was so complicated."

### The Preparation of Statements and the Settlement of Adjustments.

#### (a) AS TO EXCHEQUER CONTRIBUTIONS.

784. The witnesses agreed in expressing the view that no alteration of the existing law or procedure as to the adjustment of Exchequer contributions was requisite.§ In these circumstances it is not necessary for us to do more than to put on record the fact that they did not agree in their estimate of the degree of difficulty which is encountered in practice in the preparation of statements and the settlement of adjustments under this head.||

† Keen, M. 23 (IV, 719), M. 50 (IV, 735), Q. 11,728-33 (IV, 720), Q. 11,738-42 (IV, 720), Q. 15,455-6 (IV, 941).

‡ Keen, Q. 11,619-21 (IV, 714), M. 50 (IV, 735), Q. 11,947 (IV, 738).

\* Keen and Collins, Q. 11,619-21 (IV, 714); cf. Collins, Q. 16,114-6 (IV, 983).

§ Keen, Q. 12,038-42 (IV, 742), Q. 12,122-3 (IV, 746).

|| Keen and Collins, Q. 11,619-21 (IV, 714).



A statement and discussion of the specific difficulties which, in the opinion of County Councils, are commonly met with, will be found in Mr. Keen's evidence.†

(b) AS TO OTHER FINANCIAL RELATIONS.

785. It was further agreed by the witnesses that in their view no alteration of the existing law or procedure was requisite as to the adjustment of the following financial relations other than relations arising from the receipt of Exchequer contributions, namely,

- (i) Capital assets and liabilities;
- (ii) Cash balances and revenue assets and liabilities;
- (iii) Compensation to officers.

An exposition and discussion of the difficulties which, in the opinion of County Councils, are in practice encountered in the preparation of statements and the settlement of adjustments under the two former heads will be found in Mr. Keen's evidence.§

No difficulties generally arising under the third head were brought to our notice.||

## SECTION 5.—MATTERS INVOLVING DIFFERENCES OF PRINCIPLE BETWEEN LOCAL AUTHORITIES.

### The Preparation of Statements and the Settlement of Adjustments as to Increase of Burden on Ratepayers.

#### GENERAL.

786. The evidence taken before us shows that differences of principle exist between County Councils and Town Councils on the subject of the operation of the existing law and procedure relating to payments in respect of any increase of burden thrown on the ratepayers of the area of a Local Authority in meeting the cost incurred by the Authority in the exercise of any of their functions as a consequence of the severance of an area from an Administrative County which takes place on the constitution or extension of a County Borough.

It is the opinion of County Councils that the existing law and procedure governing this matter require alteration.

It is the opinion of Town Councils that the law as settled by the Act of 1913, and the procedure established under it, should remain undisturbed.

† Keen, M. 31 (IV, 723), Q. 11,788-93 (IV, 723), M. 34 (IV, 734), Q. 11,876-93 (IV, 736), M. 41-4 (IV, 735), Q. 12,119-36 (IV, 745), Q. 12,140-58 (IV, 747).

§ Keen, M. 45-7 (IV, 735), Q. 12,159-74 (IV, 747) (as to capital assets); M. 48 (IV, 735), Q. 12,175-80 (IV, 748) (as to capital liabilities); M. 49 (IV, 735), Q. 12,181 (IV, 748) (as to cash balances and revenue assets and liabilities).

|| Keen and Collins, Q. 11,664-6 (IV, 716).

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THE POSITION OF COUNTY COUNCILS.

(a) *Between 1889 and 1907.*

787. The first argument of County Councils in favour of an alteration of the existing law and procedure was that between the date (1889) when the Act of 1888 came into operation, and the date (1907) of the decision of the House of Lords in the West Hartlepool County Borough Council and Durham County Council case, their position was more favourable than it is under the Act of 1913 and the current practice.

788. We have seen that the Commissioners appointed under the Act of 1888 decided that the equitable number of years' purchase to be given for the cessation of liabilities was as follows :

*For liabilities in respect of*

Cost of main roads	}	Thirty years' purchase.
Cost of County bridges		
County officers' salaries	}	Fifteen years' purchase.
Miscellaneous expenses		

The principle underlying these decisions was, in the opinion of County Councils, that for any liability shown to the satisfaction of the Commissioners to be permanent, such a capital sum should be paid, by the Authority ceasing to bear the liability, to the Authority undertaking it, as would leave the ratepayers of the area of the latter Authority no worse off at any future time than they were before the severance; and that for any liability not shown to the satisfaction of the Commissioners to be permanent, such a capital sum should be paid as to maintain those ratepayers in the like position so long as the liability lasted. That is, the Commissioners considered it to be equitable to give compensation to Local Authorities under the Act of 1888 for loss of rateable area as such.\*

(b) *Between 1907 and 1913.*

789. Between the date (1907) of the decision of the House of Lords and the date (1913) of the passage of the Local Government (Adjustments) Act, the position of County Councils was less favourable than it is under the Act of 1913 and the current practice; for in deciding that adjustment under the existing law did not include compensation, the House of Lords decided that it was not legal to give compensation to Local Authorities under the Act of 1888 for loss of rateable area as such.

(c) *Under the Act of 1913.*

790. Since 1913 the position of County Councils has been less favourable than it was between 1889 and 1907, but more

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\* Jarratt, M. 72 (IV, 963), Q. 15,810-4 (IV, 965).

favourable than it was between the latter date and the passage of the Act.

The Act gave effect to the recommendations of the Joint Select Committee of 1911 by providing for the payment, not of compensation for loss of rateable area as such, but of compensation for increase of burden on ratepayers, adopting the principle that "each party before the arbitrator should be entitled to produce evidence to prove that in carrying out the administration of their areas and maintaining their roads and bridges, they would, on the figures as they stand at the appointed day, have legitimately imposed upon them an increased burden, or a burden which would, in the judgment of the arbitrator, be thrown upon them at some future time in reference to some particular head of administration in consequence of the taking away of part of the area."\*

So far the purport of the Joint Select Committee's Report, as translated into effect by the Act of 1913, was to restore the position enjoyed by County Councils between 1889 and 1907.

791. But as regards the equitable number of years' purchase to be given for the cessation of liabilities, the views of the Joint Select Committee, adopted by Parliament in the Act of 1913, differed from those of the Commissioners under the Act of 1888. In lieu of thirty years' purchase for liabilities in respect of cost of main roads and County bridges, and fifteen years' purchase for liabilities in respect of other services, the Committee's proposal, to which the Act gave effect, was to fix a maximum of fifteen years' purchase, beyond which the arbitrator should in no case go, for liabilities in respect of any service, and to allow the arbitrator to adapt to the circumstances of the particular case such multiple, not exceeding the maximum, of a year's purchase of the yearly loss as might be proved equitable under each head of claim.

So far as the multiplication of the proved yearly loss on any service by the maximum figure of fifteen does not produce such a capital sum as when paid, by the Authority ceasing to bear the liability, to the Authority undertaking it, leaves the ratepayers of the area of the latter Authority no worse off at any future time than they were before the severance, the position of County Councils (as representing such ratepayers) is less favourable than that enjoyed by them between 1889 and 1907.

792. The extent of the alteration in the position of County Councils is the extent of the difference between the capital sum payable for any liability proved to be permanent (i) when the maximum number of years' purchase was thirty and (ii) now that the maximum number of years' purchase is fifteen. The number of years' purchase necessary to produce a capital sum which, when invested, would yield sufficient to meet the proved permanent liability in perpetuity was said to be approximately

\* H.C. 246 of 1911, paragraph 10.

thirty in 1889,\* thirty in 1913,† and twenty to twenty-two and a half at the present time.‡

793. Although County Councils accepted the existing methods of settlement of financial adjustments, they considered that in the following matters the practice of arbitrators under the Act of 1913 was detrimental to the interests of County ratepayers.

### The Question of the Amount of the Increase of Burden.

794. It was said that in obtaining a settlement of the figure of the average annual increase of burden to be anticipated in respect of the cost of any service, County Councils were at a disadvantage in dealing with any service which was becoming continuously more expensive to administer. They could point to past experience as showing a prospect of future increase of cost, but Mr. Keen's view of the attitude of arbitrators was as follows :§

"11,750. . . . The County Council claiming may say 'That increase will go on; we have not arrived at the peak yet.' Now supposing they claim a figure of 25 per cent. more than the highest figure contained in that table, an arbitrator is in the realm of speculation, and it is almost hopelessly impossible to induce an arbitrator to accept that. He says, 'I must have something more solid to go on than merely probabilities of the future, even backed up by the fact that this is a growing service.' At the same time justice may not be done unless you can anticipate the future. There are cases in which the claim has been put forward in this way: 'The expenditure in the last year before the extension was so much. We anticipate that next year it will be so much, and in the following year so much. Discount each of those back to the present time and then arrive at the average of the whole, discounted back.' That is a means of getting in future any excess over the present expenditure, but at the same time it is very difficult for an arbitrator to deal with it on those lines, and one's experience is that an arbitrator generally falls back on an average of a few years, or, at the highest, the last year's experience."

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"11,755. (*Mr. Pritchard*): With regard to the ordinary expenditure, do I understand the position to be this, that you find it difficult to persuade the arbitrator to assume that the cost of repairing roads will continue to increase in the future as it has in the past?—I think you can persuade the arbitrator that it is likely to be increased, but you cannot induce him to put a figure upon it.

"11,756. But he is bound to, if he thinks it will increase?—Yes, but when you come to the hearing before the arbitrator he says, 'What figure do you ask me to take?' You suggest a figure, but you cannot prove it; it is so much a matter of estimate and assumption that the arbitrator likes to be on firmer ground, and my experience is that evidence of that kind carries very little weight with an arbitrator. Then if that circumstance is put forward it has to be applied to the area remaining and to the area that is extended."

795. On the question of the measurement of the amount of the increase of burden, it was said by Mr. Collins on behalf of Town Councils that when statements were prepared for the

\* Keen and Collins, Q. 11,374-8 (IV, 698).

† Collins, Q. 14,080 (IV, 872); Marks, Q. 16,683 (V, 1015), Q. 16,688 (V, 1015).

‡ Collins, Q. 16,183-4 (IV, 986).

§ 11,750 (IV, 720), 11,755-6 (IV, 721).

purpose of settling an adjustment it was frequently found that the expenditure of the County Council, during the period covered by the statements, in the area severed from the Administrative County, was not normal.\*

He suggested that the expenditure in question was likely to be less than normal for two main reasons.

796. The first was that as soon as the possibility of the severance of an area from the Administrative County became present to the minds of a County Council, they took account of the fact that the greater the disparity between the amount of the contribution by the ratepayers in the area to the County Rate, and the expenditure of the County Council on the provision of services within the area, the greater would be the increase of burden thrown upon the ratepayers in the residue of the Administrative County as a consequence of the severance, for which the County Council could claim relief under the Act of 1913.†

797. The second reason was that if in the opinion of a County Council an area was likely within a short time to be severed from the Administrative County, the Council, while performing their statutory duties towards the inhabitants of that area, would probably not give them the benefit of a progressive development of services such as secondary education, the improvement of main roads, or any service which necessitated the acquisition of land.‡

798. He agreed that to some extent this policy was due to the apprehension felt by County Councils that the ratepayers of their areas would not, under the Act of 1913, be recouped for any such expenditure; and that if the compensation were so generous as to leave them in no doubt that there would be no loss to them, the policy would be altered "except in the rare case in which there was vicious objection to any extension at all."§ But he thought that the policy had prevailed even during the period before 1907, when the position was most favourable to County Councils, because "they were much more safe in refraining from expending, and thereby becoming possessed of a profit, as it were, than they were in going on spending in the hope of getting it back even by the most liberal terms of compensation."||

799. Hence the practice of those who represented Town Councils in the settlement of an adjustment, in dealing with the question of the amount of the increase of burden, was to submit evidence to the arbitrator directed to showing what would be a fair allowance to make for the normal cost of the

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\* Collins, Q. 14,060 (IV, 870).

† Collins, Q. 14,061-4 (IV, 870), cf. Q. 16,264-6 (IV, 991).

‡ Collins, Q. 14,064-5 (IV, 870).

§ Collins, Q. 14,067 (IV, 871).

|| Collins, Q. 14,068 (IV, 871).

maintenance of each service included in the statements of expenditure. Their view was that such an allowance was the true measure of the amount of the increase of burden.||

800. Mr. Collins summed up the difference of principle between County Councils and County Borough Councils on this point by saying that a County Council were always inclined to allow their views to be influenced by figures. The figures before them were the figures of what they had drawn in rates from the area on the one hand, and of what their books showed that they had spent in the area on the other hand; and they looked to somebody to get the balance of the first figures over the second figures for them. A County Borough Council, as against that view, always took the view that such figures might mean very little.\*

### **The Question of the Number of Years' Purchase of the Increase of Burden.**

801. The Act of 1913 provides that in determining the sum to be paid in respect of increase of burden on ratepayers regard shall be had to the length of time during which the increase of burden may be expected to continue; but whatever that length of time is estimated to be, not more than fifteen years' purchase of any liability can be given.

### **IS COMPENSATION FOR PERMANENT INCREASE OF BURDEN UNDULY LIMITED?**

802. In the opinion of County Councils the statutory maximum of fifteen years' purchase of any liability fixed by the Act of 1913 was inequitable in its effect upon the interests of County ratepayers.

In the first place, as has been stated above, so far as any burden is proved to be permanent, in the present state of the money market the maximum capital sum payable in respect of such a liability does not, when invested, yield sufficient to meet the liability in perpetuity.†

### **IS THE MAXIMUM OF FIFTEEN YEARS' PURCHASE TOO SELDOM GIVEN?**

803. In the second place, Mr. Keen attached importance to the effect of the statutory maximum of fifteen years' purchase upon the minds of the parties to an adjustment. Although he was not in a position to say how much less than fifteen the average number of years' purchase given since 1913 had been,‡ his general impression of the results of arbitrations was clear§ :

|| Collins, Q. 14,064 (IV, 870), Q. 14,071 (IV, 871).

\* Collins, Q. 14,071 (IV, 871).

† Keen, M. 25 (IV, 719).

‡ Keen, Q. 11,798-9 (IV, 720), Q. 11,744-5 (IV, 720).

§ Keen, Q. 12,008 (IV, 741).

"With a maximum of 15 years' purchase, in a case going to arbitration you may be quite sure in advance that one side will claim the 15 years' and one side will claim less than 15 years'. You may be almost sure in advance that an arbitrator will give somewhere between the two, and therefore that in very few cases, if any, will you get your full 15 years' purchase."

804. On this point, Mr. Collins replied that if the number of years' purchase given by arbitrators in respect of particular liabilities was disappointing to County Councils, the explanation was to be found in the indiscriminate manner in which claims for the maximum of fifteen years' purchase were made. He described his experience as follows:†

"14,071.....The claimants generally proceed before the arbitrator on the assumption that, almost as a matter of course, whatever the burden is, the Act has said that there should be a maximum of 15 years' purchase, and that is the figure. In very few cases indeed does one find any attempt to exercise discretion in allotting to the respective headings of burden a number of years' purchase other than 15 years. I have had cases in which compensation for 15 years has been claimed for a liability only running for three years.

"14,072. (*Chairman*): Was that number awarded by the arbitrator?—No. Immediately we pointed it out to the arbitrator the claim was amended.

"14,073. What you are saying is not that the arbitrator awarded 15 years' purchase, but that the claim was made for 15 years?—That is right."

805. Taking as his example the claims made on behalf of County Councils in respect of the number of years' purchase of any increase of burden under the head of administrative expenses, Mr. Collins gave the following account of the views of such claims held by the parties:‡

"There are very few Authorities who could show that not for 15 years will they have an opportunity of adjusting their salaries and establishment expenses so as to meet automatically the change of burden. If the Commission can imagine any business establishment they know of, I will try and give you a commercial simile. If you can imagine any business establishment you know of, or any Local Authority you know of, and you are asked to say, assuming you lose a part of your area, will you not be able to make such adjustment in your administration as will correct it before the end of 15 years, I doubt very much whether any member of this Commission would find himself able to say that he could not. Whenever an area is taken out of a County or an Urban District or any other Local Authority's sphere of jurisdiction, it is commonly suggested that whatever that area has paid towards the establishment expenses representing the officers' salaries, or the expenses of keeping up the Town Hall or otherwise, is a good subject for a claim for 15 years' purchase, and usually whatever that payment is, gross, is regarded as the burden. There is no saving credited whatever. Now I suggest that the true view to take is a view which is regularly submitted to the arbitrators by the respondents, namely, that one of the elements which the Duke of Devonshire's Committee, we think, must have had in their minds when they said that 15 years should be the maximum number of years' purchase, was that in respect of items such as establishment expenses and salaries and the like, there

† Collins, Q. 14,071-3 (IV, 871), cf., Q. 16,188-96 (IV, 987).

‡ Collins, Q. 14,081 (IV, 872), cf. M. 47-50 (IV, 993), Q. 16,305*f.* (IV, 993).

must be an opportunity to submit to the arbitrator evidence as to how long that burden would be likely to endure. To take 15 years as a period over which that burden is likely to endure, that is, to assume absolute standardization of all the expenses of the Authority which has lost the area on salaries and establishment charges, is an extremely long period to take. We therefore generally say: 'We assess your compensation for losses of contribution towards salaries at not more than 10 years, and your expenses in connexion with the Town Hall, postages, stationery, printing, advertising, rents, rates and taxes, and the like, probably at five years. We assume that in the first of those periods, namely in 10 years, you will be able to adjust your staff by reason of your remaining area requiring pretty well the same staff as it would have had before; and with regard to establishment expenses, that the lopping off of the severed area automatically reduces your expenses on printing, postages, stationery and so on, and that if you get five years' purchase for them you have done very well.' "

806. Mr. Collins added that in his view the maximum of fifteen years' purchase was as a rule given by the arbitrator in respect of any liability which was recognized to be permanent.\*

#### DOES THE EXISTENCE OF A MAXIMUM DEPRESS THE COMPENSATION GIVEN FOR NON-PERMANENT INCREASE OF BURDEN?

807. In the third place, Mr. Keen said that the number of years' purchase given for terminating liabilities had in practice been reduced since 1913 by reason of a series of assumptions made in regard to the intentions of the Joint Select Committee of 1911 in recommending the maximum of fifteen years' purchase which was subsequently incorporated in the Act of 1913.

Fifteen is half of thirty. When the Commissioners under the Act of 1888 gave thirty years' purchase for permanent liabilities, that number of years was roughly equivalent to perpetuity.

Hence it was inferred on behalf of Town Councils that the process by which the Committee of 1911 arrived at their recommendation was as follows:†

"The Joint Committee said, 'Well, there is the property; there is the profit. Thirty years would be perpetuity; we will give you 15.' The Boroughs pay it, the Counties take it, but they neither of them like it; but it was because it was impossible to square the two principles that it went as it did."

808. In so far as this inference had been accepted, its practical results had, in Mr. Keen's view, been seriously prejudicial to the interest of County ratepayers. The following passages in his evidence set out the results of his experience on this point:‡

"11,511. ....I am not prepared to say the intention was that it was half perpetuity. All I can say is that it is 15 years, and 15 years is half of 30. Why particularly I emphasize that is this. It is sometimes said in these cases that under this Act, 30 was reduced to 15; that is to say, half perpetuity. Therefore, it is said, everything that was compensated previously on a different number of years' purchase—for instance, an item previously capitalized at 15 years' purchase—must automatically be reduced by half; in that instance to 7½ years. I do not admit that argument, and never have, in these cases; therefore I entirely object

\* Collins, Q. 14,081 (IV, 872).

† Collins, Q. 11,507 (IV, 707).

‡ Keen, Q. 11,511-2 (IV, 708), Q. 11,518-24 (IV, 708).



to a statement that the Committee gave half perpetuity, or cut down the previous period by half. All that they said was, 'We think that there must be a period put to the burden, and we think that it should be 15 years.'

"11,512. (*Chairman*): Would you agree with that, Mr. Collins?—(*Mr. Collins*): No, my Lord."

\* \* \* \* \*

"11,518. (*Mr. Pritchard*): I understand Mr. Keen to say that under the existing procedure it is submitted to arbitrators that in all cases the period naturally given should be divided by two?—(*Mr. Keen*): Yes, that is so.

"11,519. You say that is put before arbitrators?—Yes.

"11,520. And do arbitrators ever act on it?—I fear they do.

"11,521. You mean to say an arbitrator comes to the view, 'Here is a burden which one may say will last 20 years, if I will only allow 10, because the Act says 15, which is half perpetuity'?—Yes, that is so; or, on the other hand, if there is a burden which the arbitrator is satisfied will last 10 years, he in many cases cuts it down to five years, on the ground that the 30 years' purchase which was equivalent to perpetuity has been reduced to 15.

"11,522. (*Mr. Riddell*): 30 years is not perpetuity now?—No.

"11,523. (*Chairman*): It is not stated as perpetuity; it is stated as 15 years?—It is stated as 15 years.

"11,524. And the Committee did not talk about perpetuity?—Nowhere."

809. Mr. Collins said in reply that he laid stress upon his view that the decision of Parliament, following the recommendation of the Joint Select Committee of 1911, to fix the maximum number of years' purchase at fifteen, was a compromise not inequitable to either of the parties to an adjustment.\*

He dissented from Mr. Keen's account of the practical effect of the existence of this maximum figure upon the number of years' purchase given for liabilities other than permanent liabilities, and gave the following account of his experience of the operation of the existing law and procedure:†

"So far as I know, no respondent to a claim has ever seriously suggested that because 15 years' purchase was the figure allotted the claimant at a time when 30 years' represented perpetuity, it therefore followed that every item which was permanently a burden should now be the subject of valuation at no more than, say, 7½ years' purchase, because the value of money is doubled. As a matter of fact, the Boroughs who have mostly to answer to this Act almost universally, in my experience, recognize that if the burden is permanent and there can be no question of its permanency, the proper figure to allot to it is 15 years' purchase; and no suggestion, within my knowledge, is seriously received by an arbitrator that simply because the old figure was 30 and at that time 15 was allotted, and because the price of money has since increased, therefore even for a permanent burden the number of years' purchase should be reduced *pro rata*. As I say, I am not aware that any serious claim to that effect has ever been made, and even if it were I personally could not support it on a permanent burden. And I do not know of a case in which an arbitrator has taken that view himself in any one of the awards with which I have been concerned."

810. Further, he thought that the evidence offered on behalf of County Councils went rather to show that different views

\* Collins, Q. 16,203-4 (IV, 987).

† Collins, Q. 14,080 (IV, 872), cf. Q. 16,197-202 (IV, 987).

might be taken of the equity of particular awards by particular arbitrators than to show that the provisions of the Act of 1913 were in themselves inequitable.

811. On this interpretation of the evidence, Mr. Collins replied, first, that in his opinion no valid criticism could be made of the awards of arbitrators. He expressed his view as follows :\*

"I am not going to make any suggestion at all in any single case that an arbitrator's award was wrong. I take an arbitrator's award as I get it, and say nothing more about it. I should never question before any tribunal a decision given by an arbitrator. An arbitrator has all the evidence before him when he makes his award, which it is impossible to produce before this Commission. Some of these sittings last a considerable time, and if I were the arbitrator in some of them I should have great difficulty in deciding what was the exact number of years' purchase to allot to a given burden, because its effect is influenced by so many circumstances."

812. Secondly, if in fact a less number of years' purchase than the maximum of fifteen were frequently given, he considered that the proper conclusion to be drawn from the fact was that the arbitrator had applied his mind to the leading circumstance by which the number of years' purchase must be determined, and had come to a reasonable conclusion.

The position was, in his judgment, as follows :†

"The leading circumstance as to the number of years' purchase is this. Can evidence be given to the arbitrator to satisfy him that the loss which is at present suffered by an Authority parting with a bit of their area is always liable or likely to be the same, or greater? My general experience is that in very few cases in which an area is ripe, on the merits, for addition to a Borough, can any County or Urban District or Rural District Council submit satisfactory evidence to show that the profit which they were making out of that area when taken away from them was likely permanently to endure. One of the very reasons which prompts the responsible tribunal to put it into the town, or to make it a County Borough, or otherwise to alter its local government status, is that it wants a better service than that which it has got, and unless you can establish that before the tribunal you have no chance whatever of taking the area. In most cases, if that area is ripe for a higher status of government, it is obvious that the Authority who have got it, who are administering it at the normal or average level or standard of administration for the whole population under their jurisdiction, would have to raise the existing outside standard within a very short time to cater for the needs of the people within the particular area in question; and therefore the profit that is made out of that area is not an enduring profit. That, broadly, is an inevitable circumstance which presents itself when a change of status or alteration of boundaries is made, and therefore if you produce evidence to the arbitrator—as both sides do—indicating clearly that this loss which the Authority claiming compensation are at present enduring could not be regarded as permanent, the arbitrator is bound to take it into account, and usually does."

#### SHOULD THE VALUE OF MONEY AFFECT THE NUMBER OF YEARS' PURCHASE GIVEN?

813. Mr. Keen next drew attention to the difficulty in determining the number of years' purchase of any increase of burden

\* Collins, Q. 14,081 (IV, 872), cf. Q. 16,104-10 (IV, 983).

† Collins, Q. 14,081 (IV, 872), cf. Q. 16,172-3 (IV, 986), Q. 16,206 (IV, 987).

occasioned by the question whether, if fifteen were a suitable maximum number in 1913, that and other numbers of years' purchase should now be reduced because a given capital sum would, in the existing state of the money market, produce a larger yield in interest applicable by the recipient Authority in meeting the liabilities for which compensation had been paid.\*

Mr. Keen expressed the opinion that in dealing with the number of years' purchase of a liability proved to be permanent an arbitrator could properly take into account two facts only, viz., (a) the permanence of the liability, and (b) the statutory maximum number of years' purchase; and that his consideration should not extend to past or prospective changes in the value of money.†

814. He told us, however, that this question was raised during the settlement of almost all adjustments at the present time, and that it was argued that if fifteen years' purchase was equitably given for any liability in 1913, seven and a half or eight years' purchase would be the proper equivalent in view of the current rate of interest.‡

His own reply to such arguments had been that regard must not be paid to the change in rates of interest alone, but to the change in the net yield of interest after deduction of income tax. On this basis he estimated that the average yield had not increased by more than 1 or 1½ per cent. since 1913; and this measure of advantage was dependent upon the fluctuations of the money market.§

At the same time it was his strong impression that arbitrators were led to reduce the number of years' purchase given for liabilities as a result of the arguments addressed to them under this head.||

815. Mr. Collins's view on the question of taking changes in the value of money into account in the settlement of adjustments was governed by the assumption that as a basis for any such provision the Local Authorities concerned would agree that by laying down the figure of fifteen as the maximum number of years' purchase in 1913, Parliament had settled that the proper maximum figure to be taken was not a figure equivalent to perpetuity, but half such a figure.

The relevant passage in his evidence was as follows:¶

"16,175. (*Chairman*): Then of course you admit that the value of money fluctuates, and that therefore 15 years, or 30 years, or whatever it may be, may represent perpetuity at one moment, and may be a very different thing 10 years later. Do you think therefore that a fixed maximum in years is desirable, or would it be equally fair, or perhaps even more easy for the arbitrator, if there were no fixed maximum, and he was left to

\* Keen, M. 35 (IV, 734).

† Keen, Q. 11,912 (IV, 737).

‡ Keen, Q. 11,895 (IV, 736), Q. 15,449 (IV, 940), Q. 15,454 (IV, 940).

§ Keen, Q. 11,900 (IV, 737), Q. 11,905-9 (IV, 737).

|| Keen, Q. 11,904 (IV, 737).

¶ Collins, Q. 16,175-82 (IV, 986).

judge of the thing on the merits at the time?—I think there you are raising a question which strikes to the root of this compromise under the 1913 Act. If, when 30 years was perpetuity, the tribunal thought that 15 years was the maximum figure to take, then in any subsequent period when 30 years is more than perpetuity, logically the 15 years' purchase should be reduced.

"16,176. Or increased, as the case might be?—If the price of money was so low that 15 years' purchase was short of half perpetuity, there would be something in it, but we cannot see that happening in my lifetime.

"16,177. You are rather inclined to the view that it might fluctuate according to the price of money rather than the term of years?—Yes, but that would be attached very strictly to the reservation that, if there was anything in that theory, it should lead us to fix a lower maximum at the present time than 15 years.

"16,178. You say at the present time?—Yes.

"16,179. That would be a matter for adjustment under a sliding scale?—Yes, in other words, if you made the maximum variable according to the price of money, theoretically I should not be able to quarrel with it.

"16,180. (*Sir Lewis Beard*): Yes, but according to you, the maximum, if regulated by the price of money, is half perpetuity?—Yes.

"16,181. (*Sir George Macdonogh*): Although you may fix your compensation at the price of money to-day, the price of money would vary, and perhaps in five years' time what you receive to-day might be in no way equal to perpetuity?—That is true—it works both ways.

"16,182. (*Chairman*): But then you have been paid in cash?—No, it works both ways. In one span of years, as General Macdonogh says, it may operate one way, and in another span of years it may operate in another way. At the moment all County adjustments that are taking place at the present time are taking place when costs are extremely high, and the County gets compensation on the very high cost of road maintenance to-day; and if, in future, having received a cash payment on that basis, either (1) the cost of road maintenance should come down, or (2) the value of money should be reduced, the County would have done very well, as compared with those who settled five years ago, but owing to the movement of events since, appear to have done rather badly."

#### SHOULD PROSPECTIVE CHANGES IN RATEABLE VALUE AFFECT THE NUMBER OF YEARS' PURCHASE GIVEN?

816. Mr. Keen drew attention to the further difficulty in determining the number of years' purchase of any increase of burden occasioned by the question whether prospective changes in rateable value should be taken into consideration as affecting the measure of increase of burden likely to fall on the ratepayers. Under adjustments affecting County and County Borough Councils the areas in which such changes may occur are:—

- (a) The Administrative County as it stands after a severance;
- (b) The County Borough as it stands before an extension;
- (c) The area which is severed from the Administrative County on becoming, or becoming part of, a County Borough.

817. The changes may be such as to produce either an increase or a decrease in the rateable value of the area.\* The

\* Keen, Q. 11,756-62 (IV, 721), Q. 11,990-2 (IV, 741).

type of case to which Mr. Keen particularly referred was that in which, as he thought, the arbitrator had not confined himself to dealing with the question of the length of time during which the increase of burden arising as a consequence of the severance might be expected to continue, in order to determine whether fifteen or a less number of years' purchase should be given, but had reduced the number of years' purchase given because in his view circumstances not arising as a consequence of the severance would in future leave the County ratepayers better off than they would have been if the financial results of the severance had been looked at in isolation.†

818. Mr. Keen's view was that "circumstances which have no relation to the immediate question, such as growth of rateable value in other parts of the County, should not be taken into consideration as reducing the compensation to be paid."‡

In his opinion, prospective changes in the rateable value of either

(a) The Administrative County as it stood after a severance; or

(b) The County Borough as it stood before an extension, should on this principle be excluded from consideration; but prospective changes in the rateable value of

(c) The severed area which had become, or become part of, a County Borough, could properly be taken into consideration.

819. The practical difficulty of giving effect to this distinction was explained in the following passage of his evidence: §

"12,188 (*Sir Ryland Adkins*): They are quite distinct points, are they not? I understood you to tell me that you thought that the potentiality of increased rateable value in the County generally was irrelevant to this?—Yes.

"12,189. And that the potentiality of increased rateable value in the old Borough, the acquiring Authority, was irrelevant to this?—Yes.

"12,190. But potentiality of increased rateable value for the area in dispute is on quite a different footing? Do I make myself clear? Supposing a great Borough wants to take X out of a great County, the power of surviving the mutilation by the County is irrelevant; the power of the Borough itself to become richer and richer is also irrelevant?—Yes.

"12,191. But the question of the potentialities of the piece which it is sought to take is on a different footing from the potentialities of what was left in the County or what was in the Borough before? Do you follow me?—Yes, I follow you. The potentiality of the portion that the Borough takes is, I agree, under the Act a matter which may be considered; but I think that it is very seldom considered in substance, because of the difficulty of considering it. Ordinarily, as the illustration of the form of claim which we put in shows, you attempt to arrive

† A case which in Mr. Keen's opinion illustrated the effect of taking such circumstances into consideration was fully discussed in his evidence: see Keen, M. 37 (IV, 734), Q. 11,929-38 (IV, 738), Q. 11,968-75 (IV, 739), Q. 15,416-48 (IV, 939).

‡ Keen, M. 38 (IV, 735), Q. 11,922 (IV, 737), Q. 11,924-7 (IV, 738), Q. 11,933-4 (IV, 738).

§ Keen, Q. 12,188-94 (IV, 748).

at what is normal expenditure as at the appointed day, and my experience has been that you have great difficulty in getting the arbitrator to go beyond that.

"12,192. But is that right?—It is not in accordance with the Act.

"12,193. That would tend to suggest that it might possibly be wrong, if it is not in accordance with the Act?—Yes, but when you come to go into the future you assume that the burden is going to increase in the future. If you do that, you must to that extent go into the question of what will be the rate in the future, and that to a certain extent involves the consideration of what will be the rateable value in the future, so that you are drawn into the general consideration of the growth to that extent.

"12,194. What I want to get clear is this, because I am afraid Mr. Pritchard misunderstood me. What I was talking about before\* was that the increased rateable value in the rest of the County, the increased rateable value in the old Borough, in other words, the potentialities of wealth of both the contending parties, as distinguished from those of the area in dispute, are irrelevant; but the potentialities of the area in dispute are relevant in a way in which the others are not?—Yes, I am afraid that I did not make myself quite clear. In measuring those potentialities you have of necessity to have regard to what will be the future rate in the County as a whole, because it is the contribution to that rate of which the County is deprived, and that brings in these other considerations."

### **The Question of the Periodical Revision of Adjustments.**

820. In reply to a suggestion that if it were impracticable to measure accurately, at the date of an adjustment, the amount and duration of a future increase of burden, any Local Authority who found the ratepayers of the area aggrieved by the settlement should exercise the power conferred by the Act of 1888 to move for the re-opening of the adjustment, Mr. Keen made the following statement:†

"11,763. . . . I very much hesitate to recommend revision, because it is so exceedingly difficult, and because different circumstances will have arisen up to the time of the revision, new duties, and so on. It would be a very difficult matter, I think. The view I take of it is that it is one of the circumstances that should make one hesitate to extend a Borough unless there are very strong administrative grounds which entirely outweigh these rather serious financial considerations.

"11,764. Because financial injustice may eventually be inflicted?—Yes.

"11,765. (*Chairman*): The difficulty is so great in making a fair adjustment that extensions or alterations of boundaries should only be resorted to in the very last extremity, and when there is practically no other course open? Is that your point?—Unless it is very necessary that there should be a change from an administrative point of view.

"11,766. It produces so much unfairness that it is better to leave it alone, you think?—Yes. That is my view."

### **Special Difficulties as to Increase of Burden on Ratepayers Attributable to the Cost of the Maintenance of Main Roads.**

821. We follow the witnesses in drawing special attention to the difficulties which arise at all stages of a financial adjustment in determining the sum to be paid in respect of increase of

\* See Q. 11,979–82 (IV, 740), the effect of which is verbally inconsistent with the effect of the passage quoted.

† Keen, Q. 11,763–6 (IV, 721).

burden on ratepayers attributable to the cost of the maintenance of main roads.

#### DIFFICULTIES IN THE INTERPRETATION OF THE ACT OF 1913.

822. In the first place, it will be convenient to recapitulate the difficulties arising under this head in the interpretation of certain provisions of the Act of 1913 on which evidence was given.

These provisions are contained in paragraphs (2) and (3) of the Rules in Part II of the Schedule to the Act for determining the sum to be paid in respect of increase of burden, and are as follows :

“(2) The sum payable to any Authority in respect of the increase of burden shall not exceed, or, if payable by instalments or by way of annuity, the capitalised value of the instalments or annuity shall not exceed, the average annual increase of burden multiplied by fifteen.

“(3) Any sum payable in respect of the cost of the maintenance of main roads shall be payable by way of annuity.”

823. Mr. Keen said that under paragraph (2) of the Rules a difficulty had arisen as to the interpretation of the words “the capitalised value of the . . . annuity shall not exceed the average annual increase of burden multiplied by fifteen.”

His own view of their meaning was explained in the following passage of his evidence :\*

“11,831. . . . In the earlier cases after the Act there was very great doubt on the question how effect should be given to that, and, I think, only in one or two cases has effect in fact been given to it. In several cases, and amongst others in the Carlisle case, the award was 15 years' annuity of the amount of the burden that was established, but what is being claimed, and what is, I suggest, entitled to be claimed, under this is an annuity which could be purchased with a capital sum representing 15 years' purchase of the burden; and that annuity will, of course, be of a higher amount than the amount of the burden.

“11,832. (*Sir Walter Nicholas*): For my brain to comprehend that you will have to illustrate it by an example?—Assuming a burden of £100 a year, 15 years' purchase of £100 would be £1,500. If you want to invest £1,500 in the purchase of an annuity, you will get an annuity of more than £100.

“11,833. (*Mr. Turton*): A terminable annuity?—Yes, for 15 years.

“11,834. (*Chairman*): But not perpetual?—No. The amount of the annuity depends upon what rate of interest you assume in the calculation.

“11,835. (*Mr. Pritchard*): The Act does not say that it shall be an annuity for not more than 15 years?—No, it does not.

“11,836. Having arrived at your capital sum, you might get an annuity of a smaller amount for a longer period?—Yes.

“(*Mr. Turton*): The amount is to be multiplied by 15?

“(*Chairman*): The amount of the excess burden.

“11,837. (*Col. Williams*): The total sum cannot exceed 15 times the annual burden?—That is so.

“11,838. (*Chairman*): But, surely, supposing you got the capitalized value, you can do what you like with it? You can invest it in an annuity for 15 years, or you can spend it?—Yes, but the arbitrator may award a higher annuity, in the case we are assuming, than £100, because

\* Keen, Q. 11,831-40 (IV, 732).

the annuity which could be purchased with £1,500 would be more than £100 a year. In that case there would be no capital sum.

"11,839. The arbitrator may say to the paying Authority, 'Well, if you were to give the capital value, these people would get more than £100 a year for 15 years'?'—Yes.

"11,840. You are not to give the capital value, but the annual value of that annuity, if it was bought, for instance, from an insurance office? That is your point?—Yes, that is the point."

824. As regards paragraph (3) of the Rules, Mr. Keen explained that this provision had been included in the Act in order to facilitate the revision of adjustments in the light of any new definition of main roads made by a central Authority established in pursuance of the recommendation of the Joint Select Committee of 1911. §

825. The question which had been raised on this paragraph was whether it applied to adjustments settled by agreement.

Mr. Keen had advised County Councils that it did not, and in accordance with that advice capital sums had been paid in settlement of this part of adjustments with which he was concerned. In the period immediately after 1913, his opinion had been that "it was much better to take the capital sum, because it was done with and you knew where you were." At the present time, "in view of the higher rates of interest and the desirability of not borrowing more than is necessary," County Councils usually preferred a payment by way of annuity. ||

#### DIFFICULTIES IN PRACTICE.

826. Further difficulties which arose in practice in relation to this part of a financial adjustment were stated in the evidence taken before us under the heads set out in the following paragraphs.

##### *Estimation of Future Cost by reference to Previous Expenditure.*

827. First, it was said that the continuous increase in the cost of the maintenance of main roads made any figures of past expenditure untrustworthy as the basis of any calculation of the amount of a future increase of burden. The figures adopted as the basis of a claim might, according to the circumstances of the case, be those of the average cost for the past five or ten years, those of the cost in the last year, or those of an estimate of the cost in future years discounted back to the date of the adjustment.\*

##### *Estimation of Normal Expenditure.*

828. Secondly, whatever figures were adopted as the basis of a claim were subject to examination for the purpose of ascertaining whether the cost of the services during the period in question could properly be regarded as normal. †

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§ Keen, Q. 11,842 (IV, 733).

|| Keen, Q. 11,843 (IV, 733), Q. 11,841 (IV, 733).

\* Keen, M. 26-8 (IV, 722).

† Keen, M. 28 (IV, 722).



Mr. Keen recognized, for example, that in determining the amount of any increase of burden under this head at the present moment it would be reasonable to reduce the amount of the cost at the present moment, on the ground that the prices of materials and labour might be expected to fall in course of time.¶

829. Mr. Collins agreed that the cost of the maintenance of the better roads might be reduced in future, and pointed out that County ratepayers would retain the benefit of sums paid to County Councils in respect of increase of burden on the basis of the present figures of cost.¶

He further agreed that statements of expenditure by County Councils founded upon figures relating to periods before, or just after, the appointed day, were always subjected, on behalf of County Borough Councils, to the criticism that such figures "do not afford much of a guide because of the present abnormal times."\*\*\*

#### *Treatment of Expenditure on Improvements.*

830. Thirdly, discussion usually arose on the question whether the cost of the maintenance of main roads could properly include the cost of (a) improvements related to maintenance (e.g., the conversion of a surface from gravel to granite), or (b) improvements so substantial that they might be held to be in the nature of capital works.\*

#### *Treatment of Exchequer Grants.*

831. Fourthly, it was open to question whether Exchequer grants in aid of the cost of the maintenance of main roads could properly be taken into account on either side of the statements prepared for the purpose of the adjustment.†

832. On this point, Mr. Collins said that his experience was that the figures of cost included in such statements were the net figures after the deduction of Exchequer grants and the Exchequer contribution, if any, under the Local Government Act, 1888, paid either to the County Council or to the County Borough Council.‡

#### *Treatment of Grants by County Councils.*

833. Fifthly, it was open to question whether any grants made by a County Council in aid of the cost of the maintenance of roads other than main roads should be taken into account.§

#### *Questions as to the Performance of the Duty of Maintenance.*

834. Sixthly, the question arose whether the duty of maintaining roads in the severed area had been properly performed,

¶ Keen, Q. 11,913 (IV, 737).

¶ Collins, M. 30 (IV, 983), Q. 16,167-8 (IV, 986).

\*\*\* Collins, Q. 14,071 (IV, 871).

\* Keen, M. 29 (IV, 722).

† Keen, M. 29 (IV, 722).

‡ Collins, Q. 16,215-6 (IV, 989).

§ Keen, M. 29 (IV, 722).

or whether, for example, capital expenditure on roads in that area was necessary in order to enable them to bear the traffic passing over them.¶

835. On this point, Mr. Collins said that another ground on which the question arose whether the duty of maintenance had been properly performed was the practice of County Councils in many cases of dividing the cost of the maintenance of main roads in a severed area into (a) cost attributable to through traffic, which was borne by the County Council, and (b) cost attributable to local traffic, which was left to fall upon the Borough ratepayers.\*

*Questions as to the Exercise by County Councils of the Power to Declare Roads to be Main Roads.*

836. Seventhly, the question might arise whether the Council of the Administrative County from which the area was severed had failed to declare any roads in the County to be main roads which ought to have been so declared, or had declared any roads to be main roads which ought not to have been so declared.

Provision is made in explicit terms by paragraph (c) of Rule (1) of the Rules contained in Part I of the Schedule to the Act of 1913 for taking account of this question in the adjustment of Exchequer contributions; but, as has been stated above,† we were informed that this provision is not operative.

837. The provision made for dealing with the question in the determination of the sum to be paid in respect of increase of burden on ratepayers is less explicit. It is contained in the word "properly" in paragraph (1) (a) of the Rules for determining this sum which form Part II of the Schedule to the Act of 1913.‡

Under this provision it is open to a County Borough Council to submit to the arbitrator either or both of the following arguments:

(a) That the County Council concerned have not maintained roads which they ought to have maintained;

(b) That the County Council concerned have maintained roads which they ought not to have maintained.

838. Mr. Collins said that the first argument, which, if sustained, led to the conclusion that the sum to be paid to the County Council in respect of increase of burden should be reduced by the deduction of the cost of the maintenance of the roads in question as a burden properly falling upon County rate-

¶ Keen, M. 30 (IV, 723).

\* Collins, M. 34 (b) (IV, 988).

† See paragraph 759 and footnote above.

‡ Paragraph (1) (a) is as follows:—

"(1) Regard shall be had to—

"(a) The difference between the burden on the ratepayers which will properly be incurred by the Authority in meeting the cost of executing any of their powers and duties and the burden on the ratepayers which would properly have been incurred by the Authority in meeting such cost had no alteration of boundaries or other change taken place."

payers, was in practice put forward on behalf of County Borough Councils in certain cases; and cited the following example of an adjustment about to be submitted to arbitration in which the question had been raised\* :—

"16,088. . . . The Wakefield case shows this result. Wakefield is crossed by two main roads, almost exactly north-east to south-west, and at right angles. The County's claim for compensation for main roads in Wakefield arises almost wholly because of the fact that, except for a very short length at the end of that cross, the road is not a main road at all, and, therefore, while the County Council was drawing the rates from Wakefield, it had no main road expenditure to charge in Wakefield except just the tips of those cross-roads. Up to that point there, coming into the town it is a main road for about half a mile, then it stops being a main road; it crosses the town and all the traffic follows the road, and it becomes a main road again at the end of the same road on the other side of the town, and so throughout the cross. The Borough had to maintain all that cross except the tips, and all the traffic that goes through the town passes across those roads, but the County drew rateable value from the whole town and claimed for the profit they made between what they drew from the town and what it cost them to repair the tips of those four cross roads.

"16,089. (*Sir Lewis Beard*): When you get into a town it is said that the traffic becomes so intense that practically you will have the same expense in maintaining a road to accommodate the town traffic as you would if it were a main road, and, therefore, you treat it as a street and not as a main road? That is one of the points made?—If I may say so, that view was probably sound in some degree when traffic could be localized, but now, while Counties claim that Boroughs are responsible for traffic which crosses the Counties, they are not so ready to admit that traffic which crosses the Counties must cross the towns. Therefore, if there was ever a justification for charging upon the Borough the cost of those four roads except the tips, that justification is gone when you cannot localize the traffic.

"16,090. (*Chairman*): You mean that as the main roads are bound to go through the towns, so the traffic is bound to go through the Boroughs?—Yes."

839. The second argument, although admissible, was in his judgment too difficult to present to be of practical utility. On this point he expressed himself as follows† :—

"16,099. (*Mr. Pritchard*): That is a comparatively simple matter, but the converse case may arise in which there is no suggestion in the Borough that the roads which are properly main roads have not been so declared, but that roads in the County have been improperly declared main roads?—Yes.

"16,100. Would you see a difficulty in asking an arbitrator to go into a large question of that kind?—Yes, I should.

"16,101. It would be practically impossible?—Yes. I should say the odds were 10 to one against anyone ever proving it."

### **Proposals for the Amendment of the Provisions of the Act of 1913 relating to Sums Payable in respect of Increase of Burden on Ratepayers.**

840. It was submitted by Mr. Keen, on behalf of County Councils, that the provision of the Act of 1913 that the sum payable to any Authority in respect of increase of burden shall not exceed the average annual increase of burden multiplied by

\* Collins, Q. 16,088–90 (IV, 982).

† Collins, Q. 16,099–101 (IV, 982); cf. M. 33 and 34 (a) (IV, 988).

fifteen, should be altered in accordance with one or other of the following alternative proposals.

(a) PROPOSED ABOLITION OF THE STATUTORY MAXIMUM OF FIFTEEN YEARS' PURCHASE.

841. The first proposal submitted on behalf of County Councils was that the Act of 1913 should be amended by the omission of any maximum figure of the number of years' purchase of any increase of burden, and the inclusion of a provision to the effect that if any increase of burden was shown to the satisfaction of the arbitrator to be permanent, the average annual amount of such burden should be multiplied by the figure equivalent to perpetuity at the date of the adjustment, the sum so arrived at being payable to the receiving Authority.†

The County Councils put forward this proposal in preference to the alternative proposals next described.‡

(b) PROPOSED INCREASE OF THE STATUTORY MAXIMUM OF FIFTEEN YEARS' PURCHASE.

842. Alternatively, in the event of the foregoing proposal not being accepted, it was submitted on behalf of County Councils that the Act of 1913 should be amended by the substitution for the maximum figure of fifteen years' purchase of either (i) the figure of thirty or (ii) the figure equivalent to perpetuity in the present state of the money market, that is, twenty to twenty-two and a half, as the figure of the number of years' purchase of any increase of burden shown to the satisfaction of the arbitrator to be permanent.\*

(c) PROPOSED DIRECTION AS TO THE AWARD OF THE STATUTORY MAXIMUM OF FIFTEEN YEARS' PURCHASE.

843. In the event of neither of the foregoing proposals being accepted, it was submitted on behalf of County Councils that the Act of 1913 should be amended by the addition of a provision requiring the arbitrator to award the maximum figure of fifteen years' purchase of any increase of burden shown to his satisfaction to be permanent.§

**Objections to the Amendment of the Provisions of the Act of 1913 relating to Sums Payable in respect of Increase of Burden on Ratepayers.**

844. The witnesses on behalf of Town Councils submitted that both the provisions of the Act of 1913, which fixed the maximum of fifteen years' purchase of any increase of burden, and the existing procedure under which adjustments were made,

† Keen, Q. 11,956-61 (IV, 739), Q. 12,001-5 (IV, 741), Q. 12,014-9 (IV, 741), Q. 12,043-5 (IV, 742), Q. 12,085 (IV, 744).

‡ Keen, Q. 12,019-22 (IV, 742).

\* Keen, M. 53 (IV, 736), Q. 11,904 (IV, 737), Q. 12,012 (IV, 741).

§ Keen, M. 38 (IV, 735), Q. 11,904 (IV, 737), Q. 11,961 (IV, 739), Q. 11,998 (IV, 741), Q. 12,004-8 (IV, 741), Q. 12,020 (IV, 742).

were reasonably equitable in their effect both upon County and upon County Borough ratepayers, and required no alteration.

#### THE EXISTING LAW IS EQUITABLE.

845. Mr. Collins regarded the maximum of fifteen years' purchase fixed by the Act of 1913 as "virtually meeting each party half-way," and was of opinion that "nothing . . . could justify any departure from the half-way house, in the light of experience since 1913, towards a greater subsidy from town to country."†

He expanded this view in the following passage of his evidence‡:—

"16,104. (*Chairman*): . . . That is the main point which you wish to argue, is it not?—Yes, it is. If I may hark back to a previous remark I made, it has its origin in the view which the respective parties take of the right of one predominant Authority to make profit, either deliberately or quite accidentally, out of an area, and to be considered as entitled to retain that profit when, in the interests of good government, it is transferred to another Authority. If the vested interest of the County is established to the satisfaction of this Commission, and the right of the County to continue to make that profit, without attempting to measure it, as a profit, is, in the opinion of the Commission, a claim to which the County are entitled, then the only question can be one of the measurement of the burden and the number of years' purchase to be applied to it. But it would be, in my own view, a very grave mistake in the interests of good government, as I have already indicated in my memorandum, to make it any more difficult than it is now for an area to obtain autonomy within its own area without having to pay so much to the County for it as to cause it practically for all time to remain where it is without ever becoming autonomous. If 15 years' purchase is not regarded as a fair compromise of an essential difference in principle between the parties to-day, then I do not know what is, and it could only be because this Commission came to the conclusion that the Counties were wholly right in this matter, that everything they had said up to 100 per cent. was justified, that good grounds would arise, in my opinion, for revising the terms of the Act of 1913. And when I say 100 per cent., I mean that they are able to satisfy you that it is not right that alteration of areas should be made except in exceptional circumstances, that is, if the alteration takes anything out of the County, so that no Borough, whether it gets to 50,000, or 120,000, or 150,000 population, should ever become autonomous until it gets to 200,000, and that the present system of transfer knocks the administration of the County Council about so badly that the very severe remedies for which they are asking should be granted to them. If the Commission think that the Counties have proved their case on all those three heads, then I would say that there is some ground for revising the Act of 1913; but short of that I cannot see any justification for it."

846. Mr. Collins added that the large proportion of adjustments, six out of seven, which was settled by agreement between the parties without resort to arbitration, led him to think that the existing law was satisfactory, for otherwise there would be a great many more differences of opinion and a great many more arbitrations.\*

† Collins, M. 26-7 (IV, 982).

‡ Collins, Q. 16,104 (IV, 983); cf. M. 55-7 (IV, 996), M. 62-3 (IV, 997).

\* Collins, Q. 16,113-4 (IV, 983); cf. M. 58-61 (IV, 997).

847. In so far as proposals for increasing the maximum of fifteen years' purchase were based upon the increase, since 1913, of the cost of the maintenance of main roads, Mr. Collins's view was that, as between County ratepayers and County Borough ratepayers, the incidence of cost under this head had, during that period, varied to the advantage of the former and the detriment of the latter, owing to the operation of the Road Fund and of the Agricultural Rates Act, 1923.\*

*Certain Criticisms are Based upon Misapprehension.*

848. Under this head Mr. Collins said that he could testify from experience that criticisms of the maximum of fifteen years' purchase had been made by County Councils under a misapprehension on two points.

849. The first of these points was the character of the claims in respect of capital liabilities which they were entitled to make under the existing law. The nature of this misapprehension and the effect of its removal were explained by him as follows†:—

"14,073. . . . We have had other cases, too—I want to put it quite fairly to the Commission—in which loans have been running for 35 or 40 years, and loan charges have been brought into the claim and 15 years' purchase claimed on them. Taking that case as an example, many Local Authorities are under the impression that they can only get 15 years' purchase whatever the burden is. I wish to make it quite clear to the Commission—as I have had to do on a fair number of occasions elsewhere—that claims for loans are adjusted on the capital basis and not on the annual basis at all. I have found a fair number of Authorities who assume that where they have a loan carrying with it annual instalments of principal and interest for another 30 or 40 years, this 'iniquitous' Act prevents them from getting more than 15 years' purchase. When it is explained to them that loan charges do not come into this burden adjustment at all, but are an asset or liability apportioned almost strictly on the assessable value of the share, and that a capital sum is paid over for the assessable value of the share outstanding, their view is very much modified.

"14,074. (*Mr. Pritchard*): The reason for that is, I suppose, that an adjustment of loans is not under the Act of 1913 at all, but under the Act of 1888?—Quite right.

"14,075. (*Chairman*): The loan is quite clearly outside the Act of 1913?—Yes.

"14,076. You are telling us that occasionally the adjustment of loans and the adjustment of other burdens are confused in the minds of claimants?—Yes. I should not like to mention the name of the County Council, because this was a case in which I was acting for a County Council. I have this case particularly in my mind, although it is far from being an isolated example. The County Council submitted to me the claim they had put in, and I said: 'You have claimed for 15 years' purchase of annual value towards a run of 30 years?' They said: 'Yes, that is one of our objections to this dreadful Act.' When it was pointed out to them that they should withdraw all loans from the adjustment

\* Collins, M. 27 (IV, 982), M. 32 (IV, 983); cf. Jarratt, M. 77-80 (IV, 964).

† Collins, Q. 14,073-80 (IV, 871); cf. Q. 16,104 (IV, 983), Q. 16,136-8 (IV, 984).

claim and put them into a separate capital claim under the Act of 1888. and that, as the assessable value of the share of the district severed was 10 per cent. of the whole, they must undertake responsibility for 10 per cent. of the whole debt, then, when they saw what was left in the claim, and by how much the claim was increased in consequence, they took very much more rosy views of the Act of 1913.

"14,077. (*Sir Ryland Adkins*): You were a very faithful adviser?—I do not say that, but it is a commonly misunderstood Act, and even County Councils, in my experience, have not quite realized some of the benefits that this Act gives them.

"14,078. That is the Act of 1888?—The Act of 1888 linked up with the Act of 1913.

"14,079. (*Chairman*): But that mistake or misunderstanding is never in the mind of the arbitrator? It is always put right?—Always. I am only speaking now of the general view that some County Councils hold.

"14,080. I only want to get it clear on the notes?—Those are the views of the County Council, not of the arbitrator."

850. The second of these points was the extent of the obligation upon County Borough Councils to pay compensation to officers of County Councils displaced or injuriously affected by the severance of area. Mr. Collins explained that an obligation to pay such compensation was invariably imposed by Parliament,\* and gave the following example of the result of the removal of a misunderstanding of the position on the part of a County Council† :—

"16,138. . . . In another case, which is a very useful illustration, a County Council said: 'As the result of taking this area we are left with superfluous staff,' and we said: 'What superfluous staff?' 'Oh,' they said, 'The Secretary of Education, whose area comprised the County area we have lost.' We said: 'What are the facts? What are the statistics; how many children had he in his care from the area we have taken from you, in comparison with the whole district he had to administer?' And the relative proportions were as three-fifths was to two-fifths, three-fifths being within the area claimed and two-fifths in the area left. They said: 'We are proposing to give him the sack,' and we said: 'What do you propose to do with the two-fifths?' 'Oh,' they said, 'We can tack that on to another district.' They said that was the cause of grievance, but it was pointed out to them immediately that they claimed and got compensation on the assumption that their expenses would be continuing, whereas in point of fact they had been able to get rid of the officer, and at the same time had economized, because it was found that they could part with an officer who had only lost three-fifths of his work, and did not need to replace him.

"16,139. And that officer would have to be compensated?—Yes, we had to compensate him also. They had not appreciated that fact."

#### THE EXISTING PROCEDURE IS EQUITABLE.

##### *The Decisions of Arbitrators are Consistent in Principle.*

851. On this point, Mr. Collins repeated that in his view criticisms were made on behalf of County Councils which might appear to be directed against the existing law, but were in substance directed against what were thought to be partial or misconceived decisions by particular arbitrators. His own

\* Collins, M. 50 (IV, 993).

† Collins, Q. 16,138-9 (IV, 984).

opinions of the propriety and of the weight of such criticisms were as follows† :—

“ 16,104. . . . I have no complaints to make personally on the latter ground of any of the arbitrations I have been in, although we have had to pay in some cases much more heavily than I personally thought right. I am not the arbitrator, and both I and my clients in every case have accepted the arbitrator's decision as to compensation without question, and, so far as I am concerned, no Borough will appear before you with my support and complain of the decision of an arbitrator.

“ 16,105. You have been in a good many arbitrations?—Yes.

“ 16,106. There is no definite guarantee that each arbitrator will take the same point of view?—No.

“ 16,107. An arbitrator has to do the best he can by himself; there is no general line of policy?—No.

“ 16,108. Therefore one arbitrator may have one point of view, and another arbitrator may have another?—Yes.

“ 16,109. Do you find that that results in different principles being adopted?—No. I say without reservation that I cannot trace any difference in principle between the awards of any two arbitrators.

“ 16,110. They are familiar with the awards of other arbitrators, and they give their judgments on the same lines?—Their judgments are on the same lines. They are nearly all experienced local government men, men who are practising, in almost every case, at the Parliamentary Bar, and take extension and adjustment cases regularly, and I venture to add, with the complete assurance that I am taking the right view, which is based upon my experience, that the difference between one award and another is not due to differences in principle, but to differences in the circumstances of each case as weighed by the arbitrator.”

### **Proposals for, and Objections to, Amendment of the Existing Law are Based upon Differences of Principle as to the Incidence of the Cost of the Maintenance of Main Roads.**

“ 852. The foregoing proposals for, and objections to, the amendment of the provisions of the Act of 1913 relating to sums payable in respect of increase of burden on ratepayers were submitted in general terms applicable to all the services the cost of which is taken into account in determining such sums.

“ But it was agreed between witnesses on behalf of County Councils and witnesses on behalf of Town Councils that the incidence of the cost of the maintenance of main roads is the only question which gives rise to serious controversy in the settlement of this part of an adjustment.\*

This situation arises not only because the sums in dispute in relation to this service are by far the largest of any sums involved; but also because the circumstances in relation to the service have materially altered since the Act of 1913 was passed,†

†, Collins, Q. 16,104–10 (IV, 983).

\* It should be said by way of qualification of this statement that in certain passages of his evidence Mr. Collins drew special attention to the difficulties arising in the settlement of that part of adjustments which relates to salaries and cost of administration; see Q. 16,123 (IV, 984), Q. 16,142–3 (IV, 985), M. 47 (IV, 993), Q. 16,305 (IV, 993).

† Taylor, M. 34 (IV, 845), Q. 13,648–50 (IV, 845); Jarratt, Q. 15,806–8 (IV, 965).



and it is difficult or impossible to provide in financial terms for future alterations of equal or greater importance.

853. The reasons for which the provision made by the Act of 1913 was in his view unsatisfactory were explained by Mr. Dent as follows\* :

" So far as compensation goes what happens in many cases is that, if possible, the amount is agreed. The cost of services is ascertainable, and the increased burden is generally a matter which can be agreed between the respective accountants, and then comes the question of what the number of years' purchase ought to be. As you know, the maximum is 15 years, but a compromise is very often reached based on some figure like 12½ years, or something of that kind. I have two instances in mind only in the last year or two where we have agreed, and we get a contribution which is so much a year. Apart from that fact, we find already that although you only get 15 years' purchase, it is a burden which is continuous, and no consideration is given to the fact that the burden is a perpetually increasing one. Not only do you limit the purchase to 15 years' purchase, but you stereotype the contribution, on severance, almost entirely in the service of roads. You might say that roads are so large a part of it that one need not really dwell much on anything else, and you stereotype the contribution of the districts that go out of the County—no doubt very properly—on the average expenditure on main roads up to that date: whereas we now all know that the expenditure on main roads is advancing every year by leaps and bounds."

He stated that the expenditure of County Councils on the maintenance of main roads had been more than doubled, nearly trebled, in the last few years.†

854. An example of the operation of the Act of 1913 in its bearing upon the amount of the sums payable to County Councils for increase of burden in respect of the cost of the maintenance of main roads was given to us by Mr. Musgrave. Financial adjustments have recently been made between the Essex County Council and the County Borough Councils of Southend-on-Sea and East Ham as a consequence of the constitution of Southend-on-Sea and East Ham into County Boroughs. The amount which was agreed between the Authorities as being the annual increase of burden on the County ratepayers was, in respect of the cost of the maintenance of main roads, £8,651 for Southend-on-Sea, and £10,616 for East Ham, a total of £19,267. The agreed amount of the annual increase of burden for both places in respect of all other purposes was £2,360. It was also agreed between the Authorities that in respect of the additional burden, approximately £19,000, falling upon the County ratepayers in respect of the cost of the maintenance of main roads, the County Borough Councils should pay to the County Council a sum, calculated at about 13½ years' purchase, of £19,000. The annual value of that sum might be taken as being £10,000 a year, and this payment from the County Borough Councils left an annual burden on the County ratepayers in respect of the cost of the maintenance of main roads of about £9,000 or £10,000, which in

\* Dent, Q. 7201 (III, 476).

† Dent, Q. 6820 (III, 456).

Essex was equivalent to a rate of about one halfpenny. These figures were based on the facts at the time of the severance of the two Boroughs from the Administrative County, which took place in 1914 (Southend-on-Sea) and in 1915 (East Ham).\*

855. Since that time the County Council had found that the cost of the maintenance of main roads which had to be met by County ratepayers (after deduction of grants received from the Road Fund) had increased from about £165,000 in 1913-14 to about £411,000 in 1922-23. On these figures the County Council calculated that if the cost of the maintenance of main roads had gone up in the same proportion in Southend-on-Sea and in East Ham as in the residue of the Administrative County, and the severance had taken place at a time when the figures for 1922-23 had to be taken into account, the amount of the increase of burden falling upon the County ratepayers, after allowing for the greater growth of assessable value in the two towns than in the residue of the County, would have been about £64,000 a year, instead of about £19,000 a year, as it was on the basis of the figures for 1913-14. The result of the difference between the figures at the two periods was that the County ratepayers were now paying each year a sum equivalent to a rate of about threepence in respect of the cost of maintenance of main roads more than they would have had to pay if the two Boroughs had remained in the Administrative County. That is to say, the burden in respect of this service due to the severance had increased six times within a period of less than ten years.†

856. Mr. Musgrave's conclusion was that the present form of compensation for increase of burden was not equitable in its effect upon the County ratepayers, because it left the County Council permanently poorer for the discharge of compulsory duties, and took no account of prospective increase of burden as opposed to the amount of increase ascertained at an appointed day.‡

857 Mr. Dent also submitted that the measure of relief from their obligation to maintain main roads which County Councils obtained when part of the Administrative County became, or was added to, a County Borough was not proportionate to the loss of rateable value which the alterations of area entailed upon County Councils. He took this view partly because he thought that the lengths of main roads thus transferred were inconsiderable in relation to the total mileage of main roads in Administrative Counties; partly because in his opinion County Councils continued to be required to expend money on main roads remaining within their jurisdiction for purposes which were of benefit to County Boroughs and to areas added to County Boroughs; and partly because he thought that more attention had on the whole

\* Musgrave, M. 5-6 (IV, 787), Q. 12,431-48 (IV, 789).

† Musgrave, M. 7 (IV, 788), Q. 12,449-55 (IV, 790).

‡ Musgrave, Q. 12,467-514 (IV, 791).

been given in the past to roads within County Boroughs, or in the thickly populated areas most likely to be added to County Boroughs, than to roads in the Administrative Counties at large, which now required to be reconstructed in order to bear the traffic put upon them. §

858. Mr. Keen made the following comments on his proposals for the amendment to the existing law :\*

"15,452. (*Sir Lewis Beard*): Just to finish off this point of the permanent burden, you are familiar with the adjustments that used to be made before the Act of 1913?—Yes.

"15,453. When 30 years was given for main roads, but there were many cases in which for other things five and seven years were given?—Yes.

"15,454. So that there are things which even under that older dispensation were not permanent and could be dealt with by small number of years' purchase?—Yes. I do not quarrel with that now. It is only when you are dealing with the item of main roads, or highways, that I have always maintained, and still in every case maintain that that is the most permanent burden, which should be capitalized at 15 years' purchase. It is put against me: 'Oh, no, the value of money has changed. Fifteen years ought to be now something less, and various other circumstances point to it not being permanent,' as, for instance, in one case development of coal in the area, and various other circumstances.

"15,455. You are able to deal with those points as they come up in each case?—They are very difficult to deal with, and the difficulty leads to compromises, which are very unsatisfactory from the claimant's point of view, rather than run the risk of arbitration.

"15,456. That is a feature of all litigation, is it not?—Yes, it is, but I think something a little more definite in the shape of instruction to the arbitrator is necessary, even apart from increasing the number of years' purchase from 15 to nearer a figure representing perpetuity."

That is to say, the proposals were in substance directed solely to varying the incidence of the cost of the maintenance of main roads as between County ratepayers and County Borough ratepayers. †

859. Mr. Collins, while objecting to the proposals because he thought that any variation in the incidence of this cost should be effected by other means, expressed the following opinion of the probable result of removing this item in an adjustment from the sphere of controversy :‡

"16,140. (*Sir Lewis Beard*): . . . Is it your opinion that all these points of adjustment are satisfactorily dealt with by the Act of 1913, except possibly main roads?—Yes.

"16,141. And that the main road question is not primarily a question of adjustment under the Act of 1913, but is a question of administration and finance to be dealt with on some basis not at present before us?—Yes. I go so far as to say this, that I think if you were to ask County Councils whether, apart from main roads, there was any real grievance under the Act of 1913, they would agree with Sir Harcourt Clare."

"16,143. . . . Main roads are always the most difficult point to settle, but we have never gone to a fight on main roads alone, and what

§ Dent, Q. 6831-40 (III, 457), Q. 6985-7 (III, 463).

\* Keen, Q. 15,452-6 (IV, 940).

† Cf. Jarratt, M. 77-80 (III, 964) Q. 15,839-44 (IV, 966); Collins, Q. 16,185-7 (IV, 986), Q. 16,191-5 (IV, 987), Q. 16,205-6 (IV, 987).

‡ Collins, Q. 16,140-1 (IV, 985), Q. 16,143-5 (IV, 985); cf. Q. 16,164-6 (IV, 985).

I meant to convey was this, that where we have settled everything except main roads—

“16,144. Supposing you were to cut out main roads, supposing they were nationalized and were not a question of local government at all, how would you envisage this?—I should not anticipate a single arbitration. I was just adding previously that where we have settled, say, twenty-nine heads out of thirty, and the thirtieth is main roads, we have never thought it worth while to go on and fight on main roads alone; we have settled. It is only where that question was accompanied by acute differences on other heads that we have ever gone to arbitration.

“16,145. Then we get back to my original question, that if you eliminate main roads your difficulties would largely disappear?—Absolutely.”

## CHAPTER XI.—ON QUESTIONS OTHER THAN PROCEDURE AFFECTING ONLY THE CONSTITUTION OF COUNTY BOROUGHES.

### SECTION 1.—WHAT ARE THE PROPER CONDITIONS OF THE CONTINUANCE OF BOROUGHES UNDER COUNTY GOVERNMENT?

The Provisions of the Local Government Act, 1888.

Evidence on behalf of County Councils.

#### PRIMARY OBJECT OF THESE PROVISIONS.

860. The witnesses on behalf of County Councils interpreted the Parliamentary history of the provisions contained in section 31 of the Act of 1888 as showing that the constitution of County Boroughs by or under the Act was a purpose subsidiary to the main purpose of the Act, which was to replace the existing administrative system in Counties by a system of a representative character.\*

861. The late Lord Long told us that, in preparing the Bill of 1888 for this main purpose, the Government could not but be aware of the existence of certain large Cities which, by reason of their vast commercial interests and general importance, were entitled to claim absolute autonomy in local administration. The number of Cities complying with these conditions was, in the opinion of the Government, ten only, and the Government felt that their claim could be admitted without detriment to the principle of the association of urban and rural areas under County government.†

During the passage of the Bill of 1888 through Parliament, alterations were made in clause 30, which became section 31 of the Act. The nature and the causes of these alterations were described to us by Lord Long. He said that the Government had felt that the ten great Cities which it was originally proposed to make Counties of themselves for the purpose of the

\* Dent, M. 5 (III, 441), Q. 6491-4 (III, 442), Q. 6534-44 (III, 444).

† Long, M. 3-4 (III, 563).

Act had had practical autonomy in local affairs already, and that it would not be desirable to try to make them part of the Administrative County.‡

862. The first difficulty with which the Government were confronted, on submitting their original proposal to Parliament, was that there were already in the country certain very old Boroughs which in most, if not all, cases enjoyed the dignity of being Counties of Cities, although their populations were quite small in comparison with those of the ten Cities named in the Bill. The House of Commons made it clear to the Government that these smaller Cities were very unwilling to be merged in the new Administrative County and to lose some of their existing powers.§

The Government then for the first time proposed to base the qualification for County Borough status under the Bill upon the numbers of population. The ten Cities originally named in the Bill, though they were named on account of their general importance and not by reason of their population, in fact all had a population exceeding 145,000 according to the Census of 1881. The Government therefore proposed to take a population limit of 150,000 as the qualification for County Borough status, but under pressure from the representatives of Town Councils in the House of Commons this number was reduced, first to 100,000, and subsequently to the figure of 50,000 which stands in section 31 of the Act. Lord Long's recollection of the method by which the lower limit was reached was as follows: "We came to the 50,000 line for a reason which very often obtains in the House of Commons—because we could not help ourselves."\*

863. In Lord Long's opinion, the enlargement of the provisions of the Bill to cover the 61 Boroughs which were ultimately constituted into County Boroughs by the Act, and to enable other Boroughs to be constituted into County Boroughs, was dictated more by local sentiment than by the necessities of local government.† He thought that the population basis was open to criticism on the ground that it enabled a Borough with 51,000 people to become a County Borough, but excluded an Urban District which might have twice that population merely on the ground that it was not incorporated.||

864. He agreed that it was a fair analysis of the Parliamentary situation at the time to say, first, that the privilege of applying for the grant of a Court of Quarter Sessions, which gave a Borough a special status and to some extent removed it from the jurisdiction of the County Quarter Sessions, was taken away by the Bill of 1888, and that the Boroughs demanded some com-

‡ Long, Q. 8771 (III, 564).

§ Long, Q. 8772 (III, 564).

\* Long, M. 5 (III, 563), Q. 8772-87 (III, 564).

† Long, M. 5 (III, 563).

|| Long, Q. 8796 (III, 565).

pensation for the removal of that privilege†; secondly, that the Boroughs were apprehensive that a County Council elected by popular vote would have more weight and driving power than County Quarter Sessions, and might, therefore, interfere more with what the Boroughs considered to be their own business§; and, thirdly, that the Boroughs realized that since the County electoral divisions could not be formed on a purely numerical basis, but must take account of the scattered character of the rural population, the representation of rural areas on the County Councils would be larger in proportion to the contributions of rural ratepayers to local taxation than the representation on the Councils of urban areas.\* For these reasons the strongest possible pressure was put upon the Government to confer County Borough status upon the maximum number of existing Boroughs whose inhabitants did not wish to be included in the new Administrative Counties.

865. Turning from the provisions of section 31 to the provisions of section 54, which enable County Boroughs to be constituted from time to time subject to the statutory conditions, it was submitted on behalf of County Councils that since the provisions of section 31 were subsidiary to the main purpose of the Act, it must be assumed that Parliament did not anticipate that so many County Boroughs would be constituted in the future under section 54 as to impair the general scheme of County government established by the Act. In their view, Parliament did not foresee the growth of population and the industrial development which had occurred since 1888, and accordingly it must be assumed that the facilities for the constitution of County Boroughs provided by the terms of the Act were intended by Parliament to apply only to exceptional cases, and were not intended to enable County Boroughs to be constituted in the numbers and for the reasons which had increased the number of County Boroughs from 61 to 82 at the present time.†

#### THEIR EFFECT UPON BOROUGHs THEN EXISTING.

866. It was suggested on behalf of County Councils that some misapprehension existed in regard to the effect of the Act of 1888 upon Boroughs existing at that date. It was said that in one case at least, that of Doncaster, the Town Council had represented to a Committee of Parliament that the constitution of a Non-County Borough which had been a Quarter Sessions Borough before 1888 into a County Borough was a process provided for under the Act in order to enable the Council of such a Borough, if at any time after 1889 the population became not

† Long, Q. 8797-9 (III, 565).

§ Long, Q. 8800-1 (III, 565).

\* Long, Q. 8802-4 (III, 565).

† Dent, M. 5 (III, 441), M. 22 (III, 452), Q. 6532-3 (III, 444), Q. 6716-9 (III, 452), Q. 6723-6 (III, 453), Q. 6728-32 (III, 453).

less than 50,000, to recover some measure of independence which they possessed before County Councils were established by the Act of 1888, and of which they were deprived by the establishment of County Councils.\*

867. Sir William Vibart Dixon said that in his view Non-County Boroughs which were Quarter Sessions Boroughs in 1888 were not, as such, affected by the Act in any other way than Non-County Boroughs which were not then Quarter Sessions Boroughs. The effect which the Act had upon Non-County Boroughs, whether or not they were Quarter Sessions Boroughs in 1888, was (a) to alter the financial relations between the Boroughs and the rest of the new Administrative County; (b) to make the Boroughs part of the new Administrative Counties for the purpose of the administration of certain services over which County Councils were given jurisdiction by the Act, for example, the maintenance of main roads; and (c) to put local government on such a footing that certain functions assigned to Local Authorities by Parliament after 1888, for example, in regard to higher education, were not assigned to the Councils of Non-County Boroughs acting independently, but were assigned to County Councils, who represented the Boroughs in common with the remainder of the Administrative Counties.†

#### THEIR INTERPRETATION SINCE 1888.

868. The witnesses on behalf of County Councils further represented that, whatever the intentions of Parliament might have been, the interpretation given to section 54 of the Act of 1888 in its application to the constitution of County Boroughs was in practice inconsistent with the main purpose of the Act.

They said that the fact that the population of a Borough had become not less than 50,000 was virtually regarded by the Town Council not merely as a title to apply for County Borough status, but as an adequate reason for the grant of such status

869. It was admitted that it is clear on the face of the Act itself that a Town Council who make a proposal that the Borough should be constituted into a County Borough must show, first, that the Borough has a population of 50,000, and, secondly, that it is desirable that the Borough should be constituted into a County Borough; and that unless they can show both these things the proposal will be rejected. But it was suggested that Town Councils had in substance, at any rate in certain instances, put forward the contention that when the population reached 50,000 they had a right to County Borough status, and that the onus was on the County Council to challenge that right.‡

It was not alleged that any application for County Borough status had been put forward on the sole ground that the Borough

\* Vibart Dixon, Q. 10,419-32 (III, 643).

† Vibart Dixon, Q. 10,477 (III, 646), Q. 10,479 (III, 646), Q. 10,653-5 (III, 652).

‡ Dent, M. 41 (III, 536), Q. 8163-71 (III, 539).

had a population of 50,000, but it was said that the attainment of that population had made Town Councils so act as if they considered that the Boroughs had a right to become County Boroughs; and that many of the arguments which they adduced to show that the proposal was desirable were arguments which might be urged on behalf of any town which had a population of 50,000.\*

870. On this point, much stress was laid upon the proceedings following the application of the Doncaster Town Council in 1920 for the Borough to be constituted into a County Borough, and particular importance was attached by County Councils to the following statement made by the Town Clerk of Doncaster at the Local Inquiry into the application:—"It has been suggested that before the Corporation can succeed with this application they must show that the work of the County Council carried on in this Borough is inefficient. Nobody has suggested that it is inefficient at all. It has not been suggested, but what we do say is that when we have reached the 50,000 population we are entitled, provided we have a clean record, to be raised to the status of a County Borough."§

It was suggested that by this statement the Town Council had succeeded in conveying to the responsible authorities that if the 50,000 population were there, and the administration of the Borough were not inefficient, the Council had proved their case, irrespective of the effect of granting the application upon the Administrative County or other persons or bodies concerned; and that this insistence upon the condition which qualified a Borough to make an application had resulted in obscuring the more important point, that the application must be shown not only to be in compliance with the statute on the preliminary point of population, but also to be desirable, as required by the section, in the interest of good government.†

871. The late Mr. Marks thought that the terms of section 54 lent themselves to misinterpretation, because they did not make it clear that the question of desirability must be examined not only from the point of view of the Town Council, but also from the point of view of the County Council or of any other opponents of a proposal.‡

### **Evidence on behalf of Town Councils.**

#### **TRUE CONSTRUCTION OF THESE PROVISIONS.**

872. The witnesses on behalf of Town Councils did not accept the view expressed on behalf of County Councils that the main purpose of the Act of 1888 was to establish a system of representative government in the areas of Administrative Counties. They

\* Dent, Q. 8172-80 (III, 539).

§ Vibart Dixon, M. 12 (III, 639).

† Vibart Dixon, Q. 10,378-95 (III, 640), Q. 10,400-33 (III, 642).

‡ Marks, Q. 13,042-7 (IV, 816).



said that the Act must be read as a whole, and that it was plain from its terms that the decision of Parliament had been to establish representative government in Administrative Counties subject to two conditions, namely, first, the exclusion of the Boroughs named in the Third Schedule to the Act from the new system of County government; and secondly, the provision made in the Act for the subsequent constitution of other Boroughs into County Boroughs which would similarly be excluded from the system of County government. For this reason the Act provided that the Council of any Borough not named in the Third Schedule, when the population of the Borough attained a certain figure, should have a right to apply for the Borough to be constituted into a County Borough; and this provision was an essential part of the scheme of local government contemplated by the Act. §

873. The scheme must, therefore, not be regarded as a scheme for the government of Administrative Counties alone, or as a scheme which treated the system of government proper to County Boroughs as an exception to the rule that County government should be generally applied. The basis of the Act was that County government should not extend over any town which either (a) was to be for the purposes of the Act an Administrative County of itself, and was referred to in the Act as a County Borough, or (b) became of such a size and character that Parliament after 1888 considered that the conditions justifying its constitution into a County Borough were satisfied. The two terms, County Borough and County, were exclusive of each other, and the Local Authorities having jurisdiction in areas of the one type were not an exception to a rule that administration by Authorities of the other type should prevail, because both Authorities were of equal status. †

#### THEIR EFFECT UPON BOROUGHs THEN EXISTING.

##### *Upon Boroughs then Constituted into County Boroughs.*

874. The witnesses on behalf of Town Councils said that it was incorrect to suppose that the effect of the Act of 1888 upon the position of Cities and Boroughs with a large population was to give them some measure of independence which they had not previously enjoyed. The object of the Act was to preserve their existing independence, and to exempt them from the control of the County Councils established under the Act. The previous position had been that all Municipal Corporations were outside the jurisdiction of the County Justices for administrative purposes, and that Quarter Sessions

§ Fox, Q. 7502-20 (III, 504).

† Brooks, M. 3 (IV, 873), Q. 14,101-7 (IV, 874); Jarratt, M. 40 (IV, 954), Q. 15,697-713 (IV, 956).

Boroughs had been practically independent of County Quarter Sessions before 1835, and were continued in that status by the Municipal Corporations Act of that year.\*

*Upon Other Quarter Sessions Boroughs.*

*Administrative Effect.*

875. It was suggested that the Act of 1888 brought about a change in the measure of independence which the Councils of Quarter Sessions Boroughs existing before that time had enjoyed.

876. The first service affected was the maintenance of main roads, and as regards that service the effect of the Act was to take away the status of the Councils of Quarter Sessions Boroughs as being solely responsible for the maintenance of roads in their areas. It was true that the Act of 1888 reserved (by section 35 (4) (b) ) to the Councils of these Boroughs the right to claim to maintain any main road within the Borough boundaries; but the exercise of this function was subject to the obligation laid upon the Borough Councils under the Act to submit estimates of expenditure on the roads to County Councils, to obtain the County Councils' approval of proposed works on the roads, and to satisfy County Councils that the work had been carried out in such a manner that the Borough Councils were entitled to recover the cost from County funds.†

877. The second service affected was public health administration. As regards that service, the Act of 1888 (by section 19 (1) ) laid upon the Medical Officer of Health of each existing Quarter Sessions Borough (as of other County Districts) an obligation to send to the County Council a copy of every periodical report which he was required to send to the Minister, and empowered the County Council, if the Medical Officer of Health did not do so, to refuse to pay any contribution which they would otherwise pay in pursuance of the Act towards the Medical Officer's salary. Further, the Act provided (by subsection (2) of section 19) that if it appeared to the County Council from any such report that the Public Health Act, 1875, had not been properly put in force within a Quarter Sessions Borough, or that any other matter affecting the public health of the Borough required to be remedied, the County Council might cause a representation to be made to the Minister on the matter.‡

878. Again, the Act (by section 14 (1) ) conferred upon County Councils concurrent powers with the Councils of Quarter Sessions Boroughs, who were the Sanitary Authorities, to enforce

\* Harbottle, M. 70 (VI, 1318).

† Bagshaw, Q. 21,615-28 (VI, 1286).

‡ Bagshaw, Q. 21,629-41 (VI, 1286), Q. 21,663-9 (VI, 1287)

the provisions of the Rivers Pollution Prevention Act, 1876, so that the Borough Councils no longer possessed the exclusive jurisdiction in regard to this service which they had had before County Councils were established.†

*Financial Effect.*

879. The financial effect of the Act of 1888 upon the position of existing Quarter Sessions Boroughs was that before the Act was passed the Council of a Quarter Sessions Borough were, with the exception of the Poor Law Authority, the only Local Authority having jurisdiction within the boundaries of the Borough. The Council were accordingly the only Authority who had the power to levy rates upon the ratepayers in the Borough, and these ratepayers were not required to contribute to the expenses of County Quarter Sessions in carrying out their functions. Since 1888, County Councils had had power to levy rates in Quarter Sessions Boroughs (as well as all other Non-County Boroughs) for County purposes, and the ratepayers in such Boroughs were required to contribute, for example, to the cost of maintenance of main roads outside the Borough, and to the cost of other services required in the Administrative County at large.‡

*Upon Subsequent Legislation.*

880. The position of the Councils of Quarter Sessions Boroughs in relation to County Councils under the Act of 1888 had, further, influenced the course of legislation subsequent to that Act. The result of the distinction drawn by the Act between the functions to be assigned to the Councils of County Boroughs and the functions to be assigned to the Councils of Non-County Boroughs, including Quarter Sessions Boroughs, had been maintained in subsequent legislation under which new functions assigned in a County Borough to the County Borough Council were assigned to the County Council, and not to the Council of the Borough, in the areas of all Non-County Boroughs, including the Quarter Sessions Boroughs existing in 1888.\*

**Evidence on behalf of County Councils.**

**The Maintenance of Efficient Administration.**

GENERAL.

881. The witnesses on behalf of County Councils said that these Councils had now built up a comprehensive organization for the discharge of the new or extended functions assigned to them since 1888; that the alteration in the area, population,

† Bagshaw, Q. 21,644-5 (VI, 1287).

‡ Bagshaw, Q. 21,646-55 (VI, 1287).

\* Bagshaw, Q. 21,642-3 (VI, 1287).

and rateable value of the Administrative County involved in the constitution of a County Borough was in consequence, from the point of view of the County Council, a more serious matter than it would have been in 1888; and that the effect of any proposal for such an alteration upon the Administrative County should be considered at the very earliest stage as being relevant to the question whether it was desirable to grant the application of a Town Council for a Borough to be constituted into a County Borough.†

882. It was submitted that the local government services now within the jurisdiction of County Councils, as compared with those transferred to them in 1888, made it necessary for the Councils to have larger financial resources and a more highly trained and specialized staff than were needed when the Act was passed, and could be efficiently administered only over a wide area which a single Authority were in a position to treat as a whole.

The services to which special attention was drawn as having been newly assigned to County Councils, or progressively developed under their jurisdiction since that time, were education, the maintenance of main roads, the administration of small holdings, provision for the treatment of mental deficiency and tuberculosis, and other forms of public health work.‡

The witnesses on behalf of County Councils amplified their general views in relation to some of these services on the lines indicated in the following paragraphs, for the purpose of showing that the necessary conditions of efficient administration are not secured by the operation of the existing law and procedure in so far as it enables a Borough having a population of no more than 50,000 to be constituted into a County Borough.

#### REQUIREMENTS OF PARTICULAR SERVICES.

##### *Education.*

883. As to education, a summary has already been given of certain existing systems of administration in County areas for the purpose of indicating the nature of the organization which the witnesses had in mind.§

##### *Maintenance of Main Roads.*

884. As regards the maintenance of main roads, it was said that the development of transport services was making it increasingly important that County Councils, who were in a position to survey the needs of wide areas, should have control

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† Dent, Q. 6579-82 (III, 446).

‡ Dent, Q. 6566 (III, 445), Q. 8612-22 (III, 556).

§ See Chapter IX, paragraphs 621-636 above.

over as much as possible of the main road system of the County ; and that the existence of an undue number of County Boroughs with a separate jurisdiction over main roads lying within the geographical County raised difficulties in the administration of this service.\*

### *Police.*

885. As to police, it was said that a population of 50,000 should be regarded as too small to enable a Local Authority to have a separate police force, both on the ground that the administrative expenses of maintaining police forces in areas with this or a smaller population were out of proportion to the size of the place, and on the ground that it was desirable that units of police administration should cover large areas on grounds of efficiency as distinct from economy.†

### *Health Services.*

886. As to health services, it was suggested that the specialized treatment in institutions and elsewhere required under a successful tuberculosis scheme made it undesirable to empower any new Authority to frame a scheme unless they had a population of 150,000 in the area.‡

As regards other health services, which would probably be directed in future more and more to the prevention and treatment of disease in individuals, a definite limit of population which should entitle an Authority to be empowered to make separate provision was not suggested ; but the principle supported by County Councils was that having regard to the specialized treatment which was required, no new Authority should be constituted who would not be capable of providing under a separate scheme the whole range of treatment which appeared to be necessary in the light of new and increasing knowledge.§

887. As to the school medical service, while no criticism was offered of the existing Local Education Authorities for the purposes of elementary education, who were bound to make such provision as they could under the existing law, it was submitted that if the question arose of constituting a new Authority who would become responsible for the separate administration of the school medical service, no Authority ought to be constituted who had not in their area a population greater than 50,000.||

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\* Dent, M. 54 (III, 537), Q. 8428-32 (III, 548).

† Taylor, Q. 13,590-608 (IV, 842), Q. 13,610-1 (IV, 843).

‡ Taylor, Q. 13,556 (IV, 840), Q. 13,560-2 (IV, 840), Q. 13,578 (IV, 841).

§ Taylor, Q. 13,548-9 (IV, 839), Q. 13,555-63 (IV, 840), Q. 13,579-87 (IV, 841).

|| Taylor, Q. 13,567-77 (IV, 840), Q. 13,616 (IV, 844).

888. As regards public assistance generally, it was suggested that the provision of specialized institutions for the sick poor, which had been discussed in the reports of previous inquiries into Poor Law administration, was a service which should not be entrusted to any Authority who had not in their area a population greater than 50,000.\*

#### CAPACITY TO MAKE INDEPENDENT PROVISION FOR CERTAIN SERVICES.

##### *General.*

889. The witnesses on behalf of County Councils recognized the possibility that some of the services for which in their view provision ought to be made over a wide area might be provided by two or more Authorities acting in co-operation; but they submitted that it was undesirable to constitute any new Authority unless it could be shown that the population and area under their jurisdiction made them competent to deal with all services with a maximum of efficiency.†

Mr. Dent suggested that the test of a proposal for the constitution of a County Borough should be whether the Council of the County Borough, if it were constituted, could adequately perform all the services which would then have to be performed by them and provide all the things which a County Council have to provide.‡

890. On the question how far such a requirement should be interpreted to mean that the Town Council must show that, if their area were constituted into a County Borough, they would be capable of satisfying the requirement without acting in co-operation with any other Authority, Mr. Keen said that in considering whether a proposal for the constitution of a County Borough should be granted, he would make it a condition of granting the proposal that the Borough must be of a size which would enable the Council, if the County Borough were constituted, to perform all the functions then incumbent upon them for themselves. By this he meant that he would not think it right to constitute a County Borough if the resources of the area were not sufficient to enable the Council to carry out all services without aid from other Authorities, and, if necessary, without acting in combination with any other Authority. If on examining the services one by one it appeared that with a population less than a certain size it would be improvident for an Authority to carry out that service in isolation from any other Authority, he would regard such evidence as an indication that the Borough could not properly be constituted into a County Borough.§

\* Taylor, Q. 13,618-27 (IV, 844).

† Taylor, M. 33 (IV, 839).

‡ Dent, Q. 6565 (III, 445), M. 70 (III, 550), Q. 8657-66 (III, 557).

§ Keen, Q. 15,380-8 (IV, 937), Q. 15,394-5 (IV, 938).

He did not leave out of account the fact that it might be advisable for the Council, when the County Borough was constituted, to enter into joint arrangements with the Councils of other Counties or County Boroughs for the performance of certain services; but such arrangements might come to an end, and he would require the Council to have such population and resources in their area as would enable them, if necessary, to make proper provision independently of any other Authority.¶

*Provision of Mental Hospitals.*

891. The foregoing suggestion was discussed in detail in relation to the provision of mental hospitals. It was said on behalf of County Councils that it should be regarded as an argument against the constitution of a County Borough that the Council would not be able to provide their own mental hospital, but would have to go to the County Council or some other Authority and ask to be allowed to board out their patients.\*

892. As an example of what had already occurred in relation to this service, Mr. Musgrave mentioned that the Town Councils of both Southend-on-Sea and East Ham, which were constituted into County Boroughs in 1914 and in 1915 respectively, were continuing to send their patients to the County Mental Hospitals on agreed terms. In regard to this service there was, therefore, in his opinion, no difference between the arrangements which existed to-day and those which had existed before the two Boroughs became County Boroughs.†

893. It was anticipated by the late Mr. Marks that if either Luton or Bedford, or both, were constituted into County Boroughs, the Town Councils must continue to co-operate with the County Council, who share a mental hospital with two other County Councils, in order to make suitable provision for their patients. In these circumstances he considered that the new County Boroughs would not be autonomous in any proper sense, because the Councils would be compelled to resume the partnership with the County Council which now existed in virtue of the fact that as Non-County Boroughs Luton and Bedford were within the Administrative County for this and other purposes. If, on the other hand, the Councils of the new County Boroughs were to insist on making separate provision, they could only do so by paying more for their patients than they now had to pay, and by sending their patients further from the places where the relatives of the patients resided.‡

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¶ Keen, Q. 15,412-5 (IV, 939).

\* Dent, Q. 6567 (III, 445).

† Musgrave, Q. 12,525-31 (IV, 795).

‡ Marks, M. 26, 29 (IV, 830), Q. 13,464-78 (IV, 834), M. 54 (V, 1011), Q. 16,634 (V, 1013); Keen, Q. 15,396-403 (IV, 938).

*Provision of Sanatoria and Dispensaries.*

894. As to institutional provision for tuberculosis, the same point was raised by the late Mr. Marks in regard to the arrangements in Bedfordshire, which are that the County Council have established a sanatorium and dispensaries at which the number of patients treated who reside in Luton or Bedford is greater than the number who reside in the rest of the Administrative County. §

*Higher Education.*

895. As regards higher education, Mr. Dent agreed that the general argument that an Authority having in their area a population of 50,000 would not be capable of making separate provision for the administration of this service must be qualified by the fact that in certain Boroughs there were existing endowments which would give the Council a specially advantageous position in framing a comprehensive scheme of higher education.\*

Where, however, these special circumstances did not prevail, it was submitted on behalf of County Councils that the interdependence of the County and the Borough Councils should be considered as an argument against constituting the Borough into a County Borough.

896. In support of this view, the late Mr. Marks explained to us the system under which provision for higher education is made by the Bedfordshire County Council and the Luton Town Council. The present arrangement is that the County Council have established in Luton two secondary schools for boys and girls respectively, which are governed by a Board of Governors consisting of 21 persons, nine appointed by the County Council, of whom three are resident in Luton, nine appointed by the Town Council, and three co-opted. The schools are maintained out of the County rate supplemented by a penny rate raised in Luton. The position as regards the place of residence of the pupils is that 78 per cent. of the boys come from Luton, 12 per cent. from the remainder of the Administrative County, and 9 per cent. from elsewhere; and that 74 per cent. of the girls come from Luton, 19 per cent. from the remainder of the Administrative County, and 6 per cent. from elsewhere. It was, in Mr. Marks's view, impossible that these schools should be administered except by co-operation between the Bedfordshire County Council and the Luton Town Council; and if Luton were constituted into a County Borough, the only effect upon the administration of the schools would be that the County Borough Council would have entire control of them, and that the County Council would have to make terms with them for the admission of pupils from the residue of the Administrative County. He considered that in

§ Marks, M. 27-9 (IV, 830), M. 54 (V, 1011), Q. 16,634 (V, 1013).

\* Dent, Q. 6572-8 (III, 446).



the circumstances the wish of the Town Council to obtain entire control of the schools should not be held to have any weight in the decision of the question whether the constitution of the Borough into a County Borough was desirable.§

### **Distribution of Responsibility between County Councils and Urban Authorities.**

#### GENERAL.

897. As regards the change at present made in the distribution of responsibility between the County Council and the Council of a Non-County Borough by the constitution of the Borough into a County Borough, the witnesses on behalf of County Councils submitted that the Council of a large Non-County Borough, such as was alone in question, gained little in new powers if the Borough were constituted into a County Borough; that none of the services thereupon transferred to the County Borough Council was likely to be better administered than it had been by the County Council; and that on these grounds the measure of advantage which would result to the Council of the newly constituted County Borough could not be considered as weighty as the detriment caused to County administration by the alteration of the area of the Administrative County.\*

The services to which special attention was directed under this head were the maintenance of main roads, higher education, police, and provision for the treatment of tuberculosis and of mental disease.

#### MAINTENANCE OF MAIN ROADS.

898. As to the maintenance of main roads, Sir William Vibart Dixon considered that the importance of the question of responsibility for this service was mainly financial†; but from the administrative standpoint he suggested that the development of long-distance traffic on main roads during the last twenty years had weakened any argument based upon the desirability of constituting a County Borough in order to give the Town Council exclusive control of the main roads within their area.‡

#### HIGHER EDUCATION.

##### *Existing Measures of Delegation.*

899. The operation of the system of higher education in certain areas was explained to us by witnesses on behalf of County Councils with the object of showing that, while County Councils

§ Marks, M. 30 (IV, 831), Q. 13,432-58 (IV, 832), Q. 16,635-42 (V, 1013).

\* Dent, Q. 6665 (III, 450); Musgrave, M. 26 (IV, 799), Q. 12,523-4 (IV, 795).

† Vibart Dixon, Q. 10,504 (III, 647).

‡ Vibart Dixon, Q. 10,669-70 (III, 653).

were entrusted under the existing law with financial and administrative responsibility for the system, they delegated a reasonable measure of their responsibility to the local bodies interested in the daily working of the system.

*Doncaster.*

900. As to the position in Doncaster, Sir William Vibart Dixon told us that the West Riding of Yorkshire County Council's view of the position was that secondary education could best be administered on the principle of making provision within the Borough for the needs of pupils who were resident in certain surrounding districts as well as for pupils from the Borough itself.

The County Council therefore considered it desirable that they should continue to be the Local Education Authority for higher education provided in the Borough, because they had jurisdiction for this purpose over the whole of the area which ought to be served from the Borough, and not merely within the Borough boundaries. §

At the present moment, however, the Town Council had a majority on the governing bodies of the secondary schools in Doncaster. ¶

901. As regards the exercise of financial control by the County Council, the governing bodies were required to furnish the County Council with an annual estimate of their expenditure, which formed part of the estimate for education throughout the Administrative County.

This estimate was included in the budget which the County Council were required to prepare, and was submitted to the Finance Committee and the Council. In the estimate as approved by the County Council, the main heads of expenditure (including salaries) would be defined, but it was the practice of the County Council not to interfere in the details of expenditure so long as the governing bodies spent the amount voted in general accordance with the estimate. The measure of the control exercised by the County Council over these bodies was that they were required to keep within the estimate, and within the limits of the main sub-heads included in the estimate. In settling the total amount to be made available in a given year, the Education and Finance Committees of the County Council treated the representations of the governing bodies as to the amount necessary with every consideration.\*

*Ilford.*

902. Mr. Musgrave gave similar evidence in regard to the administration of higher education in Ilford, a large Urban

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§ Vibart Dixon, Q. 10,616-7 (III, 651).

¶ Vibart Dixon, Q. 10,542 (III, 648), Q. 10,583 (III, 650), Q. 10,618 (III, 651).

\* Vibart Dixon, Q. 10,619-50 (III, 651).

District, the Council of which, if the District were incorporated, would be entitled under the existing law to apply for the Borough to be constituted into a County Borough. In order to facilitate the local administration of secondary education the County Council had formed in Ilford, as in other County Districts, a District Sub-Committee composed of local residents who were members of the County Council or of the District Council. This was in effect an Ilford Committee composed of Ilford people, and there was no difference of opinion between the Local Authority and the County Council. In his view, the Sub-Committee were given so large a discretion in the matter of expenditure, subject to the annual approval of their estimate by the County Council, that they had almost perfect freedom; and so far as secondary education was concerned the Urban District would not be any better off if it were constituted into a County Borough, because the District Sub-Committee practically did what they liked, and paid for it, within the approved estimate, and the County Council did not interpose.†

#### POLICE.

903. As to police, Mr. Musgrave explained that in East Ham the Local Authority had obtained no additional powers by the constitution of the Borough into a County Borough, because the area was within the Metropolitan Police District.‡ When Southend was constituted into a County Borough the responsibility for police administration passed from the County Council to the Council of the new County Borough; but he did not consider that the service was more efficiently or more economically administered than it had been by the County Council. It was true that since the Borough became a County Borough the Council had increased the numbers of the police force; but he could not say whether they had increased them more than in proportion to the growing population and the number of visitors. Before the constitution of the County Borough complaints had been received by the Standing Joint Committee as to the number of police assigned to Southend, but such complaints were general in Essex, and he still thought that Southend was a place which might quite adequately be policed by the County force.\*

#### TREATMENT OF TUBERCULOSIS AND MENTAL DISEASE.

904. As to provision for the treatment of tuberculosis and mental disease, evidence in regard to the schemes now in operation in certain areas, and the effect of constituting County

† Musgrave, Q. 12,552-62 (IV, 796).

‡ Musgrave, Q. 12,524 (IV, 795).

\* Musgrave, Q. 12,690-700 (IV, 801).

Boroughs in those areas, was given by several witnesses, with the object of showing that the powers, if any, transferred to a Town Council as a consequence of the constitution of the Borough into a County Borough, were not such that they should be taken into account as contributing to the arguments in favour of constituting the County Borough.

905. For example, Sir William Vibart Dixon explained that at the present moment the West Riding of Yorkshire County Council maintained a dispensary for the treatment of tuberculous patients in the Non-County Borough of Doncaster. The County Council regarded Doncaster as the proper centre at which to provide this service in relation to the needs not only of the inhabitants of the Borough, but also of the inhabitants of surrounding districts numbering more than 70,000 or 80,000. The County Council accordingly submitted that, if Doncaster were constituted into a County Borough, the position of the Town Council would be that they must either enter into an arrangement with the County Council for the joint control and use of the existing dispensary, or take over the existing dispensary for the sole use of the inhabitants of Doncaster, thereby making it necessary for the County Council to provide a new dispensary for the use of the inhabitants of districts surrounding Doncaster. If it were assumed that the Town Council would be willing to co-operate with the County Council for this purpose, their wish to acquire the power to do so or not as they pleased did not go to show that it was desirable to constitute the Borough into a County Borough. If, on the other hand, the Town Council and the County Council were each to make separate provision, the view of the County Council was that their own provision would be not less efficient, but more costly, and that the Town Council's provision would be both more costly and less efficient, because it would not be practicable for the Council of a small County Borough to provide the same specialized advice or facilities for laboratory investigation as were provided by the County Council.\*

906. On the question of provision for the treatment of mental disease, Mr. Musgrave explained, as has been previously stated, that the arrangements made in Southend and East Ham were the same as those which had been made for these towns with the County Council before they were constituted into County Boroughs.†

The evidence of the late Mr. Marks in regard to provision for the treatment of tuberculosis and mental disease for the inhabitants of Bedfordshire, which has been summarized under a previous head, went to show that as regards the use of the existing County sanatorium, the sole effect upon the powers of

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\* Vibart Dixon, Q. 9453-88 (III, 600), M. 12 (III, 639), Q. 10,672-5 (III, 653).

† Musgrave, Q. 12,525-32 (IV, 795), Q. 12,673-7 (IV, 801).

the Town Council either of Luton or of Bedford of constituting either Non-County Borough into a County Borough would be that whereas at present the County Tuberculosis Officer, under the instructions of the Public Health Committee, decided, so far as the accommodation would allow, which patients were to go into the County sanatorium and which were not, the Town Council would employ a Tuberculosis Officer of their own, and the recommendation of patients for admission to the County sanatorium would rest with him†; and that as regards the use of the existing County Mental Hospital, neither of the Town Councils would be in a position to cease to participate in the joint use of the institution, for the same reasons which had been shown by the evidence of Mr. Musgrave to have prevailed with the Councils of Southend-on-Sea and East Ham in relation to this service after both towns had been constituted into County Boroughs.§

### Representation of Boroughs on County Councils.

#### REPRESENTATION IS ADEQUATE.

907. The effect of the evidence of Mr. Dent in regard to the representation of Non-County Boroughs on County Councils was that specific complaints by the representatives of a Non-County Borough on the County Council that the Borough ratepayers were contributing in rates an amount of money disproportionate to the amount spent on providing services for the benefit of the inhabitants of the Borough were proper matters for investigation by any authorities who had to examine the question whether the Borough should be constituted into a County Borough.|| But he did not think that it would be generally true to say that owing to the wide area of the normal Administrative County, and the distribution of its population, the County Council usually took a view favourable to the inhabitants of rural areas within the County as against the inhabitants of the Boroughs. So far as his own County, Essex, was concerned, the representatives of urban areas tended to exercise an influence out of proportion to their numbers, because they came to meetings regularly and were experienced men of affairs. In any event, he thought that one of the great advantages of County government as at present organized was that County Councils included representatives drawn from areas of different types; and that the exchange of views between members from diverse areas produced better results than would be secured from a Council consisting entirely of members who were inclined to take one point of view.\*

Mr. Musgrave, who also referred to the composition of the Essex County Council, said that in that County the large Urban

† Marks, Q. 16,643-60 (V, 1014).

§ Marks, Q. 16,667-71 (V, 1014).

|| Dent, Q. 6671-80 (III, 450).

\* Dent, Q. 6681-3 (III, 450).

Districts (the Councils of which, if the Districts were incorporated, might make proposals for the constitution of County Boroughs) were fully represented, and that the County Council attached importance to that representation. As evidence that the representatives of urban areas on the County Council were not dissatisfied with their own share of the membership of the Council, he mentioned that they had been parties to a friendly arrangement in regard to the numbers of aldermen who should be elected by the Council from the various parts of the County, under which the representatives of the Metropolitan part of the County, although it contained more than half the population of the whole Administrative County, had made a reasonable concession to the wishes of the representatives of the rural part. §

908. As to the composition of the Bedfordshire County Council, we were told by the late Mr. Marks that the Non-County Boroughs of Bedford and Luton had had whatever representation they had asked for, and that there had never been any opposition to an application by them for increased representation. The present position was that out of a total of 66 councillors, 16 represented Luton, and 11 Bedford, and that out of 22 aldermen, 6 resided in Luton and 4 in Bedford. The population of the Administrative County was in round figures 206,000 persons, of whom 57,000 were in Luton and 40,000 in Bedford. †

### The Wishes of the Inhabitants of Boroughs.

#### PROPOSALS FOR SEVERANCE ARE BASED UPON SENTIMENT.

909. It was suggested on behalf of County Councils that the proposals for the constitution of County Boroughs which continued to be made were largely attributable to a general love of independence.

Mr. Dent summarized the views of County Councils in the following passage of his evidence‡ :—

“ 6665. (*Chairman*): You think that is really the feeling and the desire of the inhabitants of these great Cities, to have all their affairs in their own hands?—Very largely, I think. I have asked myself whether there is a single municipal function, as such, the exercise of which requires County Borough status, and I am unable to think of one that really does. In a homogeneous area like a Borough, in all the matters affecting public health and Borough life, I cannot see now a single function that requires for its better exercise County Borough status. They can all be exercised by a Borough without County Borough status; therefore I think the desire for County Borough status must be mainly attributable to sentiment.

“ 6666. You do not think it is an advantage administratively for one homogeneous collection of people in a big town to be its own master in every respect?—I do not see any real practical advantage unless it be—and I do not think the advantage does lie there—in cases of higher educa-

§ Musgrave, Q. 12,538-43 (IV, 795).

† Marks, Q. 13,088-102 (IV, 819), M. 36 (V, 999), Q. 16,407 (V, 999).

‡ Dent, Q. 6665-7 (III, 450).

tion or roads; but there I think the arguments are conclusive in favour of the wider area of the County, for reasons which I have indicated. I am speaking of municipal functions as such. That is why I attribute it mainly to sentiment.

"6667. The desire of people living in one particular area to have the full control of their own affairs. That is what it comes to?—Yes, it is a perfectly natural sentiment."

#### PROPOSALS FROM METROPOLITAN AREAS.

910. Mr. Holland submitted that there were certain objections of special force to proposals for the constitution of County Boroughs in such a County as Surrey. The status of County Boroughs had, with few exceptions, only been conferred upon towns which could be described as industrial communities. The County Borough of Croydon could not be considered as an exception to this rule, because there was an industrial community in Croydon, and there were industries in the town which had greatly developed. Although Croydon might have attained its present size because of its connexion with London, it would have existed independently of London; but whether or not Croydon was an exception to the rule, the rule was that the bulk of the County Boroughs constituted by or under the Act of 1888 had been complete communities, not only industrially, but because they had their own residential population, and in many instances a traditional form of government. They were, therefore, correctly described as complete civic organisms covering a variety of interests, and could not be compared with the Non-County Boroughs in Surrey, Richmond, Kingston, and Wimbledon, which it might be sought to constitute into County Boroughs, although both Kingston and Richmond had a good deal of local interests and civic pride, and Kingston was one of the oldest Boroughs in the country.\* The Surrey County Council, in opposing the proposal to constitute Wimbledon into a County Borough, had put forward the view that Wimbledon was in fact a suburb of London, and was not a place which had an independent existence in the sense already indicated.†

911. Mr. Musgrave submitted from another point of view that owing to the fact that the Administrative County of Essex adjoined London, a special responsibility fell upon the County Council for maintaining the efficiency of local government services; and that in particular the cost of maintaining the main roads directly connected with London was abnormally heavy and was increasing. So far as this traffic originated in Essex it originated mainly in urban areas, and the ratepayers in those areas should not be allowed to escape from paying an equitable share of the cost of the maintenance of County main roads, as they would if any of the urban areas were constituted into County Boroughs.‡

\* Holland, Q. 13,798-804 (IV, 858).

† Holland, Q. 13,776 (IV, 857).

‡ Musgrave, M. 18-21 (IV, 794).

## Importance of Questions as to the Administration of Main Roads.

### GENERAL.

912. So far as proposals for the constitution of County Boroughs rested upon financial grounds, the witnesses on behalf of County Councils were of opinion that the Councils of Non-County Boroughs were principally moved by the desire to escape from what they considered to be an unfair contribution to the cost of maintaining County roads. "That," said Mr. Dent, "is the main financial consideration, I think, in their minds."<sup>†</sup>

913. Mr. Musgrave expressed this view both as regards East Ham, which is already a County Borough, and as regards Leyton and Walthamstow, which it might be proposed in the future to constitute into County Boroughs, in the following terms\* :—

"12,537. (*Sir Lewis Beard*): . . . . What reasons do they give, or what reasons have they in their minds—what benefits do they think that they will get?—They think that they will be relieved of the expenditure on main roads. Now that was stated quite explicitly by Mr. Fitzgerald when he opened the case for East Ham, he said, 'Why should East Ham contribute £10,000 a year for the benefit of the agricultural community of this County?' He opened in that way; and I know that Leyton have put forward the same argument—'We contribute so much to the main roads of this County, and we only get back so much.' We entered into contracts with them before the war; therefore if we pay to Leyton £13,500 a year and to Walthamstow so many thousands, there again they proceed on the assumption that no service is rendered outside, and they imagine that they are going to be relieved of the amount they pay, based on the suggestion that they can be called upon to pay for no more than 15 years."

914. "It is therefore obvious," said the late Mr. Marks, in summing up the situation in Bedfordshire, "that the real reasons underlying applications for County Borough powers are a desire to obtain what seems to be regarded by them as a more important status and an attempt to get the benefit of the County roads without paying for them."<sup>‡</sup> He added, in reference to the latter statement, that in his view the crux of the whole matter was the question of main roads. The inhabitants of the Boroughs were becoming increasingly interested in main roads; and the mileage of main roads to the cost of the maintenance of which they could not equitably be required to contribute was diminishing owing to the increase of motor traffic. The inhabitants of the Boroughs now used main roads which they never used before, and there was no doubt that the main object of proposals for the constitution of the Boroughs into County Boroughs was to secure for the inhabitants the continued use of the County roads while relieving the Borough ratepayers of their present obligation to contribute

<sup>†</sup> Dent, Q. 6668 (III, 450).

\* Musgrave, Q. 12,537 (IV, 795).

<sup>‡</sup> Marks, M. 35 (IV, 834).



to the cost of the maintenance of that proportion of those roads in which they had a substantial interest.†

915. The general standpoint from which County Councils regarded this question was expressed by Mr. Musgrave in the following answer‡ :—

“ I do not admit that we made a profit out of the contribution of the Borough to County expenses in respect of main roads. Such a view can only be based on the assumption that the service of the County Council in respect of main roads was limited to the geographical area of Southend; and that, I venture to submit, in the case of Essex would be an absurdity. For miles and miles outside Southend it is Southend which utilizes the County roads; and, except on the assumption that any service which a County Council renders to a district is limited to its geographical area, that cannot be sustained, and I could not for a moment admit it. I say that a County Council can make no profit. It may be that a particular service rendered in a particular area costs less than the rate drawn from that area; but, of course, the County service is far greater. If you press it to its logical extremity, when we get to the Roothings, where there is nothing but a rural population; then, of course, they cannot by any possibility raise by rate an amount which covers the service that is rendered, not in that locality, but to the County as a whole.”

#### SPECIAL ARRANGEMENTS IN BEDFORDSHIRE FOR REGULATING THE INCIDENCE OF COST OF THIS SERVICE.

916. At the same time, the evidence of the late Mr. Marks showed that in Bedfordshire the County Council had taken special steps to regulate the incidence of the cost of the maintenance of main roads with the object of establishing a fair relation between the contributions made towards this service by ratepayers in the Non-County Boroughs and by ratepayers in the remainder of the Administrative County respectively.

The detailed description of the arrangements which Mr. Marks was able to give us may be summarized as follows.

917. Under the Local Government Act, 1888, the Bedfordshire County Council, on the 1st April, 1889, took over 234 miles of main roads previously maintained by other Authorities. These main roads were distributed over the Administrative County with great inequality, nearly the whole of the roads in some parishes being main roads for the maintenance of which all County ratepayers paid, while in other districts covering several parishes there were no main roads, and the cost of maintaining the roads accordingly fell upon the ratepayers in the areas of the various Local Highway Authorities.\*

The County Council found that the applications made to them for the maining of further roads did nothing to remove the inequality of incidence of rating to defray the cost of the maintenance of roads, and for this reason, and in order to ensure a uniform standard of maintenance, they decided in 1891 that

† Marks, Q. 13,522 (IV, 837).

‡ Musgrave, Q. 12,423 (IV, 789).

\* Marks, Q. 13,299-303 (IV, 827), Appendix LXXVI, paragraph 1 (IV, 838).

it was desirable that, provided the roads were put into a condition of repair to the satisfaction of the County Surveyor, all applications for roads which carried through traffic to be declared County main roads should be favourably considered. The result was that in Bedfordshire the whole of the important roads within the County came under the control of the County Council as main roads, and on the 31st March, 1923, there were 785 miles of main roads in the Administrative County, of which 26 miles were within the Non-County Boroughs of Bedford and Luton.†

918. The effect of the policy of the County Council was to spread the liability for the cost of the maintenance of all important roads over the whole of the ratepayers of the County, and to increase the contributions to this service of ratepayers in the Non-County Boroughs of Bedford and Luton in so far as roads outside those Boroughs which had previously been District roads paid for by the ratepayers of the District were converted into main roads paid for by all County ratepayers.‡

The County Council carried out the greater part of the process of maining roads between 1891 and 1898.§ In the latter year the County Council on their own initiative appointed a Committee to consider the financial relations between the Urban and the Rural Districts of the County, in view of the action of the County Council in converting district roads into main roads (as well as other administrative changes arising since 1889).||

919. That Committee reported in January, 1899, to the effect that a greater proportion of roads had been mained in Rural Districts than in the Non-County Boroughs within the Administrative County, namely Bedford, Luton, and Dunstable; that the Councils of the Boroughs were entitled to a greater contribution from the County Council in respect of the maintenance of roads in the Boroughs than they then received; that an equitable adjustment of the burden of the cost of the maintenance of main roads as between the Boroughs and the rest of the County could be effected by grants being made by the County Council to the Boroughs under sub-section (10) of section 11 of the Act of 1888; and that the making of such grants would not throw any unfair burden upon the rural ratepayer.\*

Sub-section (10) of section 11 of the Act of 1888 provides that the County Council may, if they think fit, contribute towards the costs of the maintenance, repair, enlargement and improvement of any highway or public footpath in the County, although the same is not a main road.

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† Marks, M. 19 (IV, 825).

‡ Marks, Q. 13,304-8 (IV, 827).

§ Marks, Q. 13,332-6 (IV, 828).

|| Marks, Q. 13,294 (IV, 826), M. 43 (V, 1000).

\* Marks, Appendix LXXXI, paragraph 9 (V, 1024).

920. The recommendations of the Committee were adopted by the County Council in February, 1899, when the Council resolved to make annual grants to the Boroughs under the foregoing sub-section. The amount of the grants was arrived at

(a) By taking into account the mileage of the main roads in the County in which the inhabitants of the Boroughs might be said to have little interest, the cost of their upkeep, and the amount which the Borough ratepayers had contributed to their maintenance; and

(b) By making grants to the Town Councils under section 11 (10) of the Act of 1888, in aid of the cost of maintenance of streets in the Boroughs which were not main roads, equivalent in amount to the amount which the Borough ratepayers had contributed to main roads in the County classified as main roads in which the Boroughs had little interest.||

921. The present position is that, of the total mileage of main roads in the County outside the Boroughs, which is 759 miles, it has been agreed between the Town Councils and the County Council that there are 240 miles of minor main roads (not classified by the Minister of Transport) in which the inhabitants of the Boroughs have little interest, and in respect of these roads grants continue to be paid to the Town Councils by the County Council, which are in effect rebates on the amounts contributed by the Borough ratepayers towards the cost of the maintenance of County main roads as a whole.\*

The amount of the grants paid is liable to revision from year to year, regard being had to the fact that roads in which the inhabitants of the Boroughs may previously have had little interest may no longer continue in that category from year to year in view of the increase of motor and other traffic.† The amounts of the grants paid to the Town Councils of Luton and Bedford in 1922-23 were £8,429 and £6,200 a year respectively.‡

922. Mr. Marks said that the County Council had regarded this system of rebates as a necessary accompaniment of their policy of declaring all the important roads in the County main roads, if the ratepayers in those parts of the Administrative County which contributed most largely to the rates were to receive fair treatment. So far as he was aware, the system of rebates had not been adopted by any other County Council, and it was within his knowledge that there had been complaints on behalf of Non-County Boroughs in other Counties that too great a proportion of roads outside the Boroughs, and too small a proportion of roads within the Boroughs, had been mained by the County Councils.§

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|| Marks, M. 37 (V, 999), Appendix I.XXXI, paragraph 5 (V, 1022).

\* Marks, M. 45 (V, 1001).

† Marks, Appendix LXXVI, paragraph 9 (IV. 838).

‡ Marks, M. 44 (V, 1000).

§ Marks, Q. 16,450-7 (V, 1003).

### Special Conditions affecting Small Counties Having Few Urban Centres.

#### GENERAL.

923. The witnesses on behalf of County Councils drew particular attention to the results which they anticipated from the continued operation of the existing law and procedure in their bearing upon County administration in such Counties as Bedfordshire and Cambridgeshire. They said that in such Administrative Counties, where there is only one Non-County Borough, or at most two, of outstanding size and importance, the constitution of a single Borough into a County Borough would "take the heart from the Administrative County" and leave the County Council with a scattered collection of rural and small urban areas upon which to levy the rates required to enable the County Council to meet the increasing cost of the local government services which they had to administer.\*

The witnesses accordingly represented that, in application to any Administrative County in which these conditions could be shown to prevail, the provision for financial adjustments consequential upon the severance of a Borough from the Administrative County on its being constituted into a County Borough could not be regarded as a means of redress for the inevitable effect upon County administration of the constitution of the County Borough.

The unit of administration over which the County Council had had jurisdiction would be destroyed and could not be restored, and no sum of money could provide adequate compensation for such a result.†

924. The Non-County Boroughs to which our attention was mainly directed under this head were Cambridge, Bedford and Luton, and Swindon. The following table shows the population and assessable value of these Non-County Boroughs and of the Administrative Counties concerned, and the proportion which the population and assessable value of each Non-County Borough bear to the figures for the Administrative County as a whole:—

Borough.	Population, 1921.	Assess- able Value, 1921.	Adminis- trative County.	Popu- lation, 1921.	Assessable Value, 1921.	Proportion in the Borough of the	
						Population of the County.	Assessable Value of the County.
Cambridge	59,264	£ 395,154	Cambridge- shire.	129,602	£ 765,741	Per cent. 45·72	Per cent. 51·60
Bedford ...	40,242	220,380	} Bedford- shire.	206,462	1,151,796 {	19·48	19·14
Luton ...	57,075	285,361				27·64	24·77
Swindon ...	54,920	254,350	Wiltshire	292,208	1,591,102	18·79	15·99

\* Dent, M. 28 (III, 465).

925. Mr. Dent said that if it were proposed to constitute into a County Borough a Non-County Borough which was the County town and was the centre of the County life, it should be a conclusive reason against the proposal if it were shown that the constitution of the County Borough would make it impossible to continue the system of County administration as it was, and would reduce the Administrative County to a nonentity. Whether this result would follow from the constitution of the County Borough was a question of fact to be considered in relation to each proposal; but it was essential that the effect of the proposal on County administration should be regarded as one of the most important considerations to be taken into account.\*

926. As regards Swindon, Mr. Dent agreed that the Administrative County of Wiltshire included other towns of considerable size and importance, that Swindon was not the County town but an industrial town which had grown up within recent times, and that its value to the County Council as a part of the Administrative County was not a matter of sentiment but a matter of finance.†

As regards Cambridge, while he agreed that if Cambridge were constituted into a County Borough it would not necessarily cease to be a County town, the effect of severing it from the County would be to reduce the population over which the County Council had jurisdiction, and the rateable value upon the produce of which they could draw, to an extent that would be entirely destructive of efficient County administration.‡

927. The late Mr. Marks, in dealing with the position of Luton and Bedford, said that while Bedfordshire, Cambridgeshire, and possibly Wiltshire were the only Administrative Counties in which County administration might at the present moment be destroyed by the constitution of a single County Borough, other cases of a like kind must eventually arise in other rural Counties if the existing law and procedure remained unchanged.§

In his view, it could not be shown that it was desirable to constitute Luton into a County Borough, because the disadvantages to Luton of remaining within the Administrative County could not be compared with the injury which would be inflicted upon the County administration if Luton were severed from the County. This argument applied with even greater force if it were assumed that Bedford also might be constituted into a County Borough, and there was no precedent which would justify the constitution of either town into a County Borough, because no case had previously arisen in which the constitution

\* Dent, Q. 7115-24 (III, 472)

† Dent, Q. 7152-5 (III, 474).

‡ Dent, Q. 7143-6 (III, 473).

§ Marks, M. 7 (IV, 814).

of a County Borough would leave the County Council to administer nothing but a purely rural area.\*

928. Mr. Marks was of opinion that the object of Parliament in passing the Act of 1888 had been to establish local government areas which would possess sufficient rateable value to afford adequate funds for the administration of the areas, and a population sufficiently large to ensure that their representatives on the County Councils would be fit to exercise the functions assigned to the Councils. If the policy contemplated by the Act were sound in 1888, it was even more necessary to maintain it now, on account of the numerous, important, and costly functions since entrusted to County Councils.†

It was true that on grounds of history and sentiment certain Administrative Counties had been constituted in 1888 which from the standpoint of administration were of a size smaller than could be regarded as suitable for the purposes which he had indicated; but this fact should be taken as a warning against reducing an Administrative County such as Bedfordshire, which was a good workable County under the Act of 1888, below the size at which it could be properly administered.‡

929. The particular effects upon County administration in Bedfordshire which the County Council would anticipate from the constitution of Luton or Bedford, or both, into County Boroughs, were explained by Mr. Marks in detail under the following heads.

#### FINANCIAL CONDITIONS.

##### *Borrowing Powers.*

930. Under sub-section (2) of section 69 of the Act of 1888, a County Council cannot raise loans (except for the services of education and small holdings) to an amount greater than one-tenth of the annual rateable value of property according to the County Rate basis, unless further borrowing is expressly authorized by Parliament. Loans for the services of education and small holdings are obtained by County Councils from the Public Works Loan Commissioners, but for other services County Councils cannot obtain money from any public authority, and have to borrow in the open market.§

931. Mr. Marks said that if Luton were constituted into a County Borough, the borrowing power remaining to the County Council would be limited to a sum of about £43,000, and that if they required to raise further money for the provision of County buildings or bridges, which might be necessary, or for the

\* Marks, M. 57-8 (V, 1012), Q. 16,673-8 (V, 1015).

† Marks, M. 4-5 (IV, 814), Q. 13,119-21 (IV, 820).

‡ Marks, Q. 13,122-6 (IV, 820).

§ Marks, M. 17 (IV, 815).

provision of institutions for the treatment of tuberculosis or mental disease, he thought that the lenders, on being informed of the financial position of the County Council, would hesitate to lend, or at any rate would only be prepared to do so on very disadvantageous terms. This state of affairs would be nearly twice as serious if Bedford, as well as Luton, were constituted into a County Borough.\* He did not go so far as to say that the County Council would be unable to raise money; but he felt sure that they would be at a serious disadvantage by comparison with their present position.†

*Losses on Land Settlement.*

932. Mr. Marks next drew attention to the position of the County Council in regard to the provision which they had made under the Land Settlement Act, 1919, of small holdings for ex-service men. The County Council had acquired over 8,000 acres of land under this Act. Any losses upon the scheme were to be borne by the taxpayer until the end of the financial year 1925-26, but the County ratepayers were to bear the whole of any losses arising after that date. The losses on the scheme had risen from less than £7,000 in the financial year 1919-20 to nearly £22,000 in the financial year 1922-23; and though it was impossible to form any accurate estimate of the prospective losses after March, 1926, he had no doubt that they would be substantial.‡ In making provision under the Act, the County Council had framed their scheme upon the assumption that they would continue to have the rates of Luton and Bedford ratepayers to draw upon in meeting losses after March, 1926; and if they had not felt confident that these resources would continue to be available, they would never have made provision upon the scale on which they had made it.§

933. It could not be said that if Luton or Bedford, or both, were constituted into County Boroughs, the County Council would be compensated for any increase of burden under this head by the terms of financial adjustment under the Act of 1913, because no loss on the scheme might have arisen at the date at which any adjustment took effect, and it would be impossible to take into account an indefinite prospective loss. The loss was not a sum which could be ascertained in advance, because it would necessarily vary from year to year, and the worse the season in any particular year the bigger the annual loss would be. It would be impracticable to transfer an equitable share of the liability for losses on the scheme to the Town Councils of Luton or Bedford, if either or both of the towns were constituted into

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\* Marks, M. 17 (IV, 815), Q. 13,261-9 (IV, 824).

† Marks, Q. 13,270-4 (IV, 825).

‡ Marks, M. 23 (IV, 829), M. 46-7 (V, 1007).

§ Marks, M. 47 (V, 1007), Q. 16,558 (V, 1008).

County Boroughs, because the proportion of men provided for under the scheme who came from either of the towns was a small one, and could not be taken as indicating the measure of liability which the ratepayers of the towns ought to continue to bear for the scheme as a whole. Further, in the circumstances prevailing in Bedfordshire, it could not be argued that there was any prospect of the rateable value of the Administrative County, after one or both of the Boroughs had been severed from it, increasing to such an extent as to put the County Council in the position in which they had been when the original liability for the scheme was incurred.\*

#### *Cost of Administration.*

934. Mr. Marks said that, from his intimate knowledge of the work of the administrative staff of the County Council, he was of opinion that if Luton or Bedford, or both, were constituted into County Boroughs, the County Council would not be able to abolish any existing office, and that the work of the various sections of the staff would not be so diminished that it would be possible to dispense with the services of any County officers engaged on administrative work. The result of severing one or both of the Boroughs from the Administrative County would, therefore, be that the County Council would have to ask County ratepayers to defray the same expenses of administration, without being able to raise any part of those expenses from the inhabitants of the Borough or Boroughs. His estimate was based upon a consideration of the position of the central staff of the County Council at Bedford, and did not include a consideration of the effect which the transfer of any schools from the County Council to a County Borough Council would have upon the staff in the schools for which the County ratepayers at present had to pay.†

#### ADMINISTRATIVE CONDITIONS.

##### *Efficiency of Personnel.*

935. Mr. Marks attached great importance to the point that if Luton or Bedford, or both, were constituted into County Boroughs, the County Council would be deprived of the services of those of their members who represented the area severed from the Administrative County. These representatives were specially valuable, first, because of their varied experience, and secondly, because of the weight which their presence on the County Council gave to decisions of the Council which were either judicial or

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\* Marks, **M. 47** (V, 1007), Q. 16,571-8 (V, 1009).

† Marks, **M. 15** (IV, 814), Q. 13,213-25 (IV, 823).



quasi-judicial in character, or affected the administration of particular services by Local Authorities within the Administrative County over which the Council had controlling or supervisory powers. §

*Reorganization of the Areas of Administrative Counties is Impracticable.*

936. The attention of Mr. Marks was drawn to the suggestion made in evidence that if an Administrative County were deprived, by the constitution of one or more County Boroughs, of the resources which would enable the County Council to perform their functions efficiently, it might be amalgamated with another Administrative County in order to form a suitable unit for local government.\* He said that he considered that this suggestion was impracticable, because if a County were so depleted in resources as to be forced to unite with another County for local government purposes, the local sentiment of the inhabitants of the two Counties united would be such as to be a serious obstacle to efficient administration. He thought that any proposal to decline to recognize existing County boundaries, and to form new local government areas, for the purpose of avoiding any existing difficulties, would give rise to difficulties far more serious than any which it could remove. †

So far as Bedfordshire was concerned, the Administrative County with which it would probably be suggested that it should be united, if Luton, or Bedford, or both, were constituted into County Boroughs, would be Huntingdonshire. But the inhabitants of Bedfordshire and Huntingdonshire were entirely different in sentiment, and the County Councils and other Authorities had already found it difficult to work together in the administration of local government services and for other purposes. Moreover, there would be no advantage to the Bedfordshire ratepayers in a union with Huntingdonshire on any terms, since the County Rate was higher in Huntingdonshire, and the County roads were not up to the Bedfordshire standard. The Bedfordshire ratepayer would certainly not obtain by the union any advantage equivalent to the loss which would follow from the severance of even Luton alone from the Administrative County. ‡

§ Marks, M. 16 (IV, 814), Q. 13,229-37 (IV, 823), Q. 13,255-8 (IV, 824).

\* Fox, Q. 7439-40 (III, 496); see Chapter IX, paragraphs 652-3, page 229 above.

† Marks, Q. 13,490-9 (IV, 835), Q. 13,516-9 (IV, 836), Q. 16,711-3 (V, 1017), Q. 16,718 (V, 1017).

‡ Marks, M. 62 (V, 1012), Q. 16,694-706 (V, 1016).

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**Evidence on behalf of Town Councils.****General Conditions which should Apply to the Continuance of Boroughs under County Government.**

937. Mr. Collins, on behalf of Town Councils, set out the general conditions which in their view should apply to the continuance of Boroughs under County government as follows§ :—

“8. In the first place, as to the union of town and country in one administrative area or unit of local government so that rich and poor may share communal burdens, this feature of the English system is quite clear, bearing in mind that its origin may be found in the Act of Elizabeth (1601) by which the English rating system was established—the Poor Relief Act, 1601. The grouping of parishes, applying the same principle territorially, was developed in the formation of Poor Law Unions for the relief of the poor as far back as 1819.

“9. The establishment of County Councils in 1888 applied the poor relief practice to other local government purposes, with an important difference which seems to me significant, in this sense, that while no one can deny that the co-operative principle is firmly rooted in English local government, so that town and country join in certain responsibilities, this principle cannot be carried too far, without inflicting too great an injury upon the town.

“10. To my mind the significance of the Local Government Act of 1888 lies in the fact that autonomy was granted to towns of a certain size, for local government purposes otherwise falling under the control of the County Council outside those Boroughs.

“11. This principle was never recognized in Poor Law Union practice, although there is of late years an increasing tendency to be observed for a grant of local autonomy in matters of poor relief.

“12. It is therefore, in my opinion, all a matter of degree as to the extent to which Counties representing the country can call upon the Boroughs representing the towns for financial aid, and there seems to me to be extraneous support for my submission that, while it is a matter of degree, Parliament has recognized that some limit to the application of this principle should be established. It was so established in point of fact in the Local Government Act, 1888, by granting financial as well as administrative autonomy to Boroughs with a population of 50,000 persons or more.”

938. The interpretation placed by Mr. Collins on the terms of the Act, taken in conjunction with the statements made on behalf of the Government while the Bill of 1888 was passing through Parliament, was that when Mr. Ritchie said on behalf of the Government that it would be most undesirable to take out of the County Councils the representatives of all the large and prosperous Boroughs in the Administrative County, or that the Boroughs would exercise a very powerful and large influence in the decisions arrived at by the County Council, on which they were represented, he must be taken to have referred to Boroughs the Councils of which were not entitled to apply for the

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\* Collins, M. 8-12 (IV, 919).

Boroughs to be excluded from the Administrative County, that is, to Boroughs having at any given time a population of less than 50,000, and to those alone.\*

939. By the Act of 1888, Parliament had recognized that the principle of the association of urban and rural areas under County government must be subject to conditions, and if it were asked whether the continuance of such association was desirable, Mr. Collins would reply that it was desirable only if a larger number of towns were placed upon an independent footing. That is to say, the principle could not be applied beyond a certain degree without inflicting unreasonable hardships upon the inhabitants of the towns, and, conversely, the Act of 1888 could only be put into operation in the interests of the towns subject to the limitation that too great an injury must not thereby be inflicted upon the inhabitants of the Administrative Counties. Hence, it was in each case a question to be considered by the proper authorities whether the continuance or the severance of an existing association between a Non-County Borough and an Administrative County was desirable on a balance of all the interests involved.†

940. In explanation of the statement that if the association of a Non-County Borough with an Administrative County were continued in a case in which it ought to be terminated, too great an injury would be inflicted upon the town, Mr. Collins said that the kind of injury which he had principally in mind was financial. He did not argue that the whole problem of the association of urban and rural areas under County government could be satisfactorily dealt with by considering solely the amount of the rates raised in the urban areas and the amount spent in providing services within those areas by County Councils. At the same time, the effect upon the minds of the ratepayers in an urban area such as a Borough of an undue disparity between the amount of the rates levied upon them for County purposes, and the quality and quantity of the services provided in the Borough by the County Council, was to lead them to desire to terminate the association of the Borough with the Administrative County at the first opportunity.‡

941. In support of the general argument that the principle of the association of urban and rural areas for purposes of local government could only be applied in a degree depending upon the facts of particular cases, Mr. Collins drew attention to the changes which had occurred since the principle of association was translated into law, and again since 1889. He pointed out that when the Act of Elizabeth first established the principle in application to poor relief, the poor rates did not amount to

\* Collins, Q. 12,335-7 (IV, 757), Q. 12,346 (IV, 758).

† Collins, Q. 14,964-6 (IV, 920), Q. 14,971-2 (IV, 920).

‡ Collins, Q. 14,967-70 (IV, 920), Q. 14,991-15,000 (IV, 921), Q. 15,009-12 (IV, 922).

more than a few pence in the pound, so that the burden thrown upon ratepayers in towns by their statutory association with ratepayers in rural areas was not heavy.†

Since 1889, the principle of association had been limited by the exclusion of the original County Boroughs, and of County Boroughs subsequently constituted, from the system of County government, so that during this period, in which rates for County purposes had been greater than rates for purposes of poor relief by an increasing amount, the principle of association had never been applied to its full extent, which would have laid a much greater burden upon the towns than they had ever had to bear.‡

Further, the financial effect of the presence or absence of association between particular Boroughs and Administrative Counties had not been fully expressed in terms of rates since 1889, because of the large and increasing proportion of the cost of local services which had since that date come to be defrayed by the taxpayer, as opposed to the ratepayers in particular local areas of administration.§

942. Mr. Collins did not think it possible to say, in the abstract, at what point the association of a Borough with an Administrative County ought to be brought to an end, but he considered from his experience that whenever the population of a town was approaching the limit of 50,000, at which under the existing law the Council could raise the question of the continuance of the association, it was generally found that the disparity between the amount which the Borough ratepayers were contributing towards the cost of County services, and the value of the services which they received from the County Council, was so great that it would be unfair, as a ruling principle of local government, to maintain the association of the Borough with the Administrative County. The whole circumstances ought to be investigated whenever the Council of the Borough were in a position to ask that the association of the town with the Administrative County should come to an end, and he did not suggest that the proper authorities, in considering a proposal, should shut their eyes to any benefit which the inhabitants of the Borough derived from the association, in addition to the direct benefit of services rendered by the County Council within the Borough area.\*

### **Divergence of Interest between the Inhabitants of Urban and of Rural Areas.**

#### **NATURE AND EXTENT OF THIS DIVERGENCE.**

943. Mr. Collins's evidence was based throughout upon the view that the inhabitants of urban and of rural areas have for local government purposes essentially divergent interests.

† Collins, M. 13 (a) (IV, 920).

‡ Collins, M. 13 (b) (IV, 920).

§ Collins, Q. 15,059-66 (IV, 924).

\* Collins, Q. 15,911-5 (IV, 972).

He traced the origin of this divergence to the desire to secure complete self-government which was always found among the inhabitants of towns, as opposed to the desire of the inhabitants of rural areas to keep the towns in association with them in order to prevent local government in the rural areas from becoming too costly.

His conclusion was that neither the inhabitants of towns nor the inhabitants of rural areas could always have what they wanted, and he submitted that the existing law and procedure provided a reasonable means of finding out on which side the balance of argument lay in each case submitted for consideration.†

944. He explained that in speaking of towns as distinct from rural areas he had in mind not only the towns which had a population of at least 50,000 in 1888, and were from the first excluded from the system of County government, together with the towns which might in due time attain a size at which their Councils could ask for them to be made self-governing, but also the towns which could not be expected ever to be constituted into County Boroughs, but had a long history and often possessed ancient Charters. It was true that these towns were for economic purposes related to the country districts round them in a way in which great towns were not, and that the inhabitants of such a town regarded the town for certain purposes as an integral part of the geographical County in which it was situated. But he considered that the desire for independence, which was found in all towns down to the smallest, ought to be gratified to the full when the towns complied with the conditions laid down by the Act of 1888, and that the historic sentiment which attached the inhabitants to a particular County as a whole was not affected in any way by the separation of a Borough from the Administrative County for the administrative purposes of local government.\*

945. In his view, the strength of the desire for independence felt by the inhabitants of towns could be traced to various causes.

First, there were the differences of opinion regularly arising between the representatives of urban areas and those of rural areas on County Councils. The urban representatives were on the whole more inclined to undertake the expenditure required for new or developing services, and the representatives of rural areas had on the whole a majority of the membership of the County Councils.‡

Secondly, apart from differences of opinion as to the quality and quantity of services provided by County Councils in Boroughs for the primary benefit of the inhabitants of the Boroughs, there

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† Collins, M. 5 (IV, 751).

\* Collins, Q. 12,241-63 (IV, 752) ; cf. Smith, Q. 17,088 (V, 1041).

‡ Collins, Q. 16,020-4 (IV, 977).

remained the desire of the inhabitants of Boroughs to become responsible for the management of what they considered their own affairs.†

946. Where there was a great divergence of view between the representatives of urban and of rural areas on a County Council, the urban representatives were bound to cease to regard the contribution of the ratepayers in their areas to the expenses of County services, which was larger than that of the other ratepayers in the County, as being part of the contributions of a single body of persons towards the needs of an organization in which they all had equal interests. Inequality in the amount of the contributions of the ratepayers in urban and rural areas associated under County government could not, of course, be entirely removed, but if the contribution to County rates of one or more Boroughs in the Administrative County was a very large, or substantially large, proportion of the whole amount raised for County expenses, while the representation of those Boroughs on the County Council gave them only a small proportion of the total membership, the question whether the association of the Boroughs and the Administrative County should be continued was bound to become present to the minds of the urban representatives on the County Council.§

947. Examples of circumstances in which the divergence of interest between the inhabitants of urban and of rural areas in particular Administrative Counties had become patent to the members elected to the County Councils from Non-County Boroughs were given by the Town Clerks of Lowestoft and of Eastbourne.

948. The late Mr. Nicholson, Town Clerk of Lowestoft, referred especially to the question of the cost of the construction and maintenance of main roads, which he described as by far the most important and costly of the services administered by County Councils, and as being the service in relation to which the interest of town ratepayers and country ratepayers came most directly into conflict. His evidence was to the effect that, at any rate in the past, the incidence of the cost of the maintenance of main roads had been a constant source of controversy between the Lowestoft Town Council and the County Council, on which the Borough was, in his view, insufficiently represented.\*

At the same time, he drew attention to the arrangements made by the Bedfordshire County Council for regulating the contribution of the Councils of Non-County Boroughs to County roads as a whole,‡ as an example of the manner in which it was possible for a County Council, by good administration, to use their powers

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† Collins, Q. 16,024 (IV, 977).

§ Collins, Q. 15,036-50 (IV, 923).

\* Nicholson, M. 32-47 (V, 1143).

‡ See paragraphs 916-922 above.

so as to adjust the benefit and the burden of this service between the two classes of urban and of rural ratepayers.‡

949. The evidence submitted by Mr. Fovargue, Town Clerk of Eastbourne, was only different inasmuch as the Town Council had succeeded in obtaining the approval of Parliament to the discontinuance of the association of the Borough with the Administrative County. In the view of Mr. Fovargue, no other decision would have been equitable, and he drew special attention, in support of this view, to the requirements of Eastbourne, first, as regards main roads, and, secondly, as regards the development of the attractions of the town.

As regards main roads, Mr. Fovargue said that the Town Council had to provide not only for the needs of residents but also for the needs of visitors, and that good roads, not only within the town itself, but in the surrounding country, were among the first necessities of the town. The rural ratepayers of East Sussex were satisfied with a much lower standard of maintenance for roads, and until the Borough became a County Borough it was a source of constant complaint in the town that, while the main roads running into Eastbourne were not maintained up to the standard required for the traffic upon them, the Eastbourne ratepayers had to pay a large share of the County expenditure on the maintenance of main roads which were not good enough to meet the needs of Eastbourne, so far as the town was interested in them at all, but were satisfactory to the inhabitants of the rural parts of the Administrative County, who paid only the smaller share of the cost.§

As to the development of the attractions of the town, Mr. Fovargue explained that he looked upon Eastbourne, and towns with similar characteristics, as commercial concerns entrusted to the Local Authority, who in managing them had to compete with the Authorities of other similar towns. The Council of such a town could not afford to stop spending money on making the town attractive, and in his view a Borough which was a health resort or a pleasure resort was in a special position, and the ratepayers should not be required, in consequence of any increase in rateable value due to the development of the attractions of the town, to make larger contributions to the County Council towards meeting County expenditure on services which conferred little or no benefit upon the inhabitants of the Borough.\*

950. In the view of the witnesses on behalf of Town Councils, the position of the Councils of Non-County Boroughs under the Act of 1888 was such that the Councils must be expected, as representing the inhabitants, to take every opportunity of

‡ Nicholson, M. 33 (V, 1143).

§ Fovargue, M. 13 (V, 1168).

\* Fovargue, Q. 19,156-85 (V, 1169), Q. 19,200-34 (V, 1170).

securing the independence of the Boroughs from the measure of control over their affairs assigned to County Councils by the Act. The Councils of Non-County Boroughs which were Quarter Sessions Boroughs before 1888 might be expected to attach peculiar importance to this point, because they considered that they had been in a position of great independence before the Act of 1888 was passed; but the same sentiment was felt in some degree by other Town Councils who might have a small population in their area, but regarded the possession of ancient Charters and the facts of the history of the town as a ground for laying claim to as much independence as possible of the jurisdiction of County Councils.†

The strength of this sentiment would probably increase with every advance in independence which a Town Council succeeded in making, and the effect of such advances was that the Council came to value independence beyond every other element in their government, and ceased to consider their association with other parts of the Administrative County under County government as being of corresponding value.‡

### Financial Aspect of Divergence of Interest.

#### GENERAL.

951. Some of the witnesses on behalf of Town Councils took the view that the divergence of interest between the inhabitants of urban and of rural areas associated under County government was of importance wholly or mainly in its financial aspect.

952. The late Sir Robert Fox thought that the attitude of County Councils towards the constitution of County Boroughs had undergone a definite change since the decisions of the House of Lords in the Caterham case (1904) and the West Hartlepool case (1907) altered the terms on which financial adjustments were made between County and County Borough Councils on the severance of a County Borough from an Administrative County. In any event, objection had been more systematically taken by County Councils to the constitution of County Boroughs since the decision in the West Hartlepool case, and especially since 1912, when the Councils of the Non-County Boroughs of Cambridge, Luton, and Wakefield proposed that the Boroughs should be constituted into County Boroughs.\*

#### IMPORTANCE OF QUESTIONS AS TO THE ADMINISTRATION OF MAIN ROADS.

953. Mr. Harbottle, Town Clerk of Blackpool, attributed the differences of opinion which exist between County and County

† Collins, Q. 12,246-8 (IV, 752), Q. 12,254 (IV, 753); Bagshaw, Q. 21,656-62 (VI, 1287).

‡ Collins, Q. 12,267-71 (IV, 754); Fovargue, M. 21 (V, 1177).

\* Fox, M. 2-4 (III, 489), Q. 7359-65 (III, 492), Q. 7373-5 (III, 493), Q. 7377 (III, 493), Q. 7423-4 (III, 495).



Borough Councils mainly to the decision in the West Hartlepool case, and added that he considered that the incidence of the liability for the cost of the maintenance of main roads was the only important question at issue between the two types of Authorities, and that if this question were settled to the satisfaction of both, no further difficulty need arise between them.\*

954. Mr. Smith, Town Clerk of Luton, agreed with the latter view in so far as he attached great importance to the question of the liability for the cost of the maintenance of main roads†; and the nature of the grievance felt by the ratepayers of Non-County Boroughs as regards this service was summed up in the following passage of his evidence :‡

" 17,346. (*Sir Lewis Beard*): I think we may summarize it very shortly? The power of a County Council to main a road is absolute?—Yes, up to the present.

" 17,347. I mean the state of things which existed, of course, when the controversy arose between Luton and Bedfordshire?—Yes.

" 17,348. And the effect of it is this, is it not: that a district road is maintained out of rates of the Urban or Rural District in which it lies?—Yes.

" 17,349. Therefore if there is a non-main road in a Rural District or in an Urban District in Bedfordshire, the rest of the County, including the Non-County Boroughs, do not contribute to the upkeep of that road?—Yes.

" 17,350. But if that road is declared a main road, the cost of that road immediately becomes a charge upon the County Rate, which rate is levied over the whole of the County, including Non-County Boroughs?—Yes.

" 17,351. Therefore the Non-County Boroughs, being of high rateable value, have to contribute a substantial share towards the upkeep of that road, which may or may not be one in which they have any interest?—Yes.

" 17,352. So that the effect of a general policy of maining is to shift a very large part of the cost of maintaining these country roads from the Districts in which they are to the whole of the County, and consequently to impose a substantial part of it upon the Non-County Boroughs?—Yes.

" 17,353. That is your grievance in a nutshell, is it not?—Yes.

" 17,354. Bedfordshire recognized that position in the way we have had explained to us by Mr. Marks?—Yes."

955. While, however, Mr. Smith admitted that the position in Bedfordshire was, from the point of view of the Councils of Non-County Boroughs, less inequitable than it might be in other Administrative Counties, he did not accept the suggestion that the County Council's policy removed all the difficulties between the County Council and the Councils of the Non-County Boroughs. So far as the Luton Town Council were concerned the position was summed up by him as follows :§

" 17,408. (*Mr. Lloyd*): It is common ground, as I understand, between you and Mr. Marks that a profit is made out of Luton by the County?—Yes.

\* Harbottle, M. 72-3 (VI, 1319), Q. 22,189-91 (VI, 1320).

† Smith, Q. 17,404 (V, 1065), Q. 17,419 (V, 1066).

‡ Smith, Q. 17,346-54 (V, 1063).

§ Smith, Q. 17,408-19 (V, 1066).

" 17,409. I am not saying improperly, or anything else, but it is common ground that you are profitable people to the County?—Yes.

" 17,410. And the great basis of their objection is that financially they will lose by your ceasing to be contributing members of their community?—Yes.

" 17,411. And that is why you have said more than once that it is a matter, between you and the County, of pounds, shillings, and pence?—That is all.

" 17,412. As I understand it, at any rate, the main difficulty is that which has arisen from the County Council's policy in dealing with main roads?—Yes.

" 17,413. Rightly or wrongly, the County Council, in days gone by, maintained a great many roads, many of which were in, shall I say, purely rural districts?—Yes.

" 17,414. The Borough then felt that their difficulty was becoming more and more emphasized as time went on?—Yes.

" 17,415. And as a matter of fact that has been met by the County making the grants of which we have heard?—Yes, to some extent.

" 17,416. And the result now, I understand, is that the Borough recognize that they are getting back in the grants a part of that which they originally paid out?—Yes.

" 17,417. But they are still contending that they pay more than their fair share of the cost of the whole of the roads of the County?—That is the essence of the position.

" 17,418. And therefore it comes back, as I understand, to the question of pounds, shillings, and pence?—Yes.

" 17,419. And that in respect of main roads; get rid of the main roads difficulty and there is nothing remaining between you and the County at all?—I perfectly agree."

956. It was, in the opinion of Mr. Smith, unnecessary to pay great regard to other grievances felt by the ratepayers in Non-County Boroughs in relation to their contributions towards the cost of County services other than the maintenance of main roads, such as higher education or the provision of land for ex-service men; and the difficulties to which reference has been made as regards the administration of services for which institutional provision was required could, in his judgment, all be overcome, and would not, on a financial adjustment, affect the position of the two communities concerned.|| His view was summed up in the words, "the only question worth talking about is main roads, and the rest does not matter."†

957. The late Mr. Nicholson, Town Clerk of Lowestoft, also expressed the opinion that the real cause of conflict between town and country in County government was not sentimental but financial‡; and he agreed with other witnesses in drawing attention to the question of the incidence of liability for the cost of the maintenance of main roads as the dominant issue between the County Councils and the Councils of Non-County Boroughs.§

\* See Smith, Q. 17,065-6 (V, 1044), Q. 17,088 (V, 1045), Q. 17,294 (V, 1057), Q. 17,303 (V, 1057), Q. 17,324-5 (V, 1060).

|| Smith, Q. 17,300 (V, 1057).

† Smith, Q. 17,402 (V, 1065).

‡ Nicholson, M. 78 (V, 1155).

§ Nicholson, M. 32-47 (V, 1143).

### Administrative Aspect of Divergence of Interest.

958. The witnesses on behalf of Town Councils explained their views of the differences arising between the representatives of urban and of rural areas on County Councils by reference to administrative practice as well as to considerations of finance.

#### REPRESENTATION OF URBAN AREAS ON COUNTY COUNCILS.

959. They said, first, that if the interests of the inhabitants of areas of the two types, which were at the outset divergent, were ever to be satisfactorily reconciled, the balance of representation on each County Council must be equitable as between those who spoke for the inhabitants of urban areas and those who spoke for the inhabitants of rural areas. It was not suggested that in all, or even most, of the business of a County Council the essential divergence of interest resulted in divisions and decisions on party lines as between the urban and the rural representatives, or that the weight of the influence of the urban representatives was exactly proportionate to their numbers.\*

But if the interests of the inhabitants of the two types of area were to be reconciled, there must be a reasonable measure of representation of each set of inhabitants on the County Council, and, still more, there must be a disposition on the part of the Council as a whole to give proper weight to the requirements of the inhabitants of urban areas for services which the County Council were required or empowered to provide in such areas in the exercise of their statutory functions.

960. Mr. Collins illustrated the character of the difficulties which arose in administration, if the composition of the Council were not properly balanced, by a negative instance of an Administrative County in which, in his opinion, the County Council had paid due regard to the interests of the inhabitants of urban areas within the Administrative County. Taking Lancashire as his instance, he said that the County Council had shown (a) a desire to meet the legitimate demands of representatives of Non-County Boroughs on the County Council for the maining of roads which ran through the towns, and for contributions from the County Council towards the cost of the maintenance of such roads at a higher rate than was needed for main roads running through areas rural in character.† The County Council had also (b) been reasonable in meeting the requirements of urban areas for increased provision for secondary education‡; and they had (c) recognized that areas which were

\* Collins, Q. 12,293-8 (IV, 755).

† Collins, Q. 12,310 (IV, 756).

‡ Collins, Q. 12,312 (IV, 756).

developing into working class towns required a larger proportion of the County police to be stationed in them than was usually assigned to the rural parts of the County.\*

Further, the County Council had (d) associated more and more representatives of Non-County Boroughs with them in their decisions by restoring a proper balance between representation and the contributions of urban ratepayers to County purposes, as the Non-County Boroughs continued to grow, and their ratepayers contributed an increasing proportion of the total rates levied in the Administrative County.†

961. In his view, the divergence of interest which must be recognized to exist could be overcome by the proper distribution of representation, and by a reasonable spirit in the administration of services, in all circumstances which might arise in an Administrative County except one. That circumstance was that, notwithstanding a reasonable increase in the representation of any urban areas within the Administrative County upon the County Council, the composition of the Council might remain such that it was predominantly representative of rural interests, and a single Non-County Borough, if it were the only Borough of its type within the Administrative County, might necessarily remain with only a small minority of representatives on the County Council. It would then be reasonable for the Council of the Non-County Borough to propose, as soon as the existing law allowed, that the Borough should be constituted into a County Borough, because the geography of the County and the distribution of its population made it impossible to give the representatives of the Borough on the County Council the amount of influence in County affairs which they might legitimately expect.‡

#### DELEGATION OF FUNCTIONS BY COUNTY COUNCILS TO URBAN AUTHORITIES.

962. The witnesses on behalf of Town Councils said that the divergence of interest between the inhabitants of urban areas and the inhabitants of rural areas, coupled with the proportion of representation on County Councils which was given to urban and to rural areas respectively, had the further result that in certain Administrative Counties the County Councils were not reasonably willing to delegate to the Councils of Non-County Boroughs such functions as they had power to delegate.

963. Mr. Collins agreed that if a County Council acted reasonably in delegating powers to the Councils of Non-County Boroughs, that policy made the continued association of the Non-County Boroughs with the rest of the Administrative County

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\* Collins, Q. 12,314 (IV, 756).

† Collins, Q. 12,312-4 (IV, 756).

‡ Collins, Q. 14,973-5 (IV, 920).

more acceptable to the Borough Councils, and went some way to provide an alternative to the constitution of the Boroughs into County Boroughs at the first opportunity.\*

964. The services which were particularly mentioned by Mr. Collins under this head were the supervision of midwives under the Midwives Acts, 1902 and 1918,† and the control by County Councils of main roads situated within Non-County Boroughs.‡

As regards the Midwives Acts, the position was that, under the Act of 1902, County Councils had had power to delegate their functions as Local Supervising Authorities to the Councils of County Districts, but that by the Act of 1918 this power was repealed, subject to the maintenance of arrangements for delegation already made at that time.§

As regards main roads, the position was different. Although the Council of a Non-County Borough might be primarily responsible for the maintenance of main roads within the Borough, the County Council retained their general control over the standard of maintenance and the uses to which the main road was put. The particular example of the exercise of control by a County Council given by Mr. Collins was that the Town Council of Torquay had proposed to erect a shelter on the part of the promenade in Torquay which happened to be a main road. Since the proposed site was on a main road, the Town Council had been bound to seek the consent of the County Council to the erection of the shelter, and that consent had been withheld after representatives of the County Council had personally inspected the proposed site.||

965. Dr. Mitchell Winter, from his personal knowledge of the circumstances in Torquay, said that in his opinion the repeal of the power to delegate functions of County Councils as Local Supervising Authorities under the Midwives Acts was wrong, and that the power should be restored in application to the Council of any County District in which a full-time Medical Officer of Health was employed.¶

He further referred to the question of the treatment of venereal diseases, for which County and County Borough Councils are the responsible Authorities, and submitted that this service was also suitable to be delegated to the Council of a Non-County Borough, who were already entrusted with the administration of other services affecting the health of particular inhabitants of the Borough.\*\*

\* Collins, Q. 15,067-76 (V, 925).

† Collins, Q. 15,076-90 (IV, 925).

‡ Collins, Q. 15,091-120 (IV, 925).

§ Collins, Q. 15,085-91 (IV, 925); Winter, Q. 20,704-7 (VI, 1235).

|| Collins, Q. 15,091-104 (IV, 925), Q. 15,112-20 (IV, 926).

¶ Winter, M. 38 (VI, 1235), Q. 20,704-31 (VI, 1235).

\*\* Winter, M. 39 (VI, 1235), Q. 20,732-49 (IV, 1236).

## PROVISION OF SERVICES BY COUNTY COUNCILS IN URBAN AREAS.

*General.*

966. In so far as the decisions of a County Council were governed by the proportion of representation assigned to Non-County Boroughs on the Council, Mr. Collins thought that the practical effects on the inhabitants of the Boroughs might be serious. The position of their representatives on a County Council who acted on these lines was that even if an urgent need were felt in the Borough for some service which the Council of the Borough would have been prepared to provide, and to ask the Borough ratepayers to pay for, it might be impossible to prevail on the County Council to make the same provision at the cost of the County ratepayers (including those in the Non-County Borough) as a whole. This difficulty was inevitable, because expenditure on a particular service which the Borough Council would not consider serious, and to which the Borough ratepayers would contribute the greater share, even if the service were provided by the County Council, might impress the representatives of rural areas on the County Council as an onerous charge upon the particular County ratepayers whom they represented. The difference of opinion upon the question whether a service was worth what it would cost was irreconcilable, and was not due to bad faith on either side; but it had the effect, in Mr. Collins's opinion, of supporting the claim of the Council of a Non-County Borough that they should be made responsible for providing their inhabitants with the services which were wanted in the Borough, at the expense of the Borough-ratepayers, as soon as the law enabled the Council to ask for this responsibility to be assigned to them.\*

Examples of the effect upon the inhabitants of Non-County Boroughs of what they felt to be insufficient consideration of their requirements were given by other witnesses.

967. The late Mr. Nicholson, Town Clerk of Lowestoft, said that the County Council elections had at first been keenly contested, and that the Borough representatives took a good deal of interest in their work, but after the first two or three elections there had been no further competition for seats on the County Council, and at the present moment not more than one or two representatives of Lowestoft made any pretence of performing their duties regularly, first, because Lowestoft was too far off from Ipswich, the seat of County government, and, secondly, because they felt that the affairs of the Borough did not receive from the County Council the attention which they deserved in view of the large contribution made by the Borough ratepayers to County expenses.†

In Mr. Nicholson's opinion, a representative of Lowestoft who attended the County Council, or Committees, went there not

\* Collins, Q. 16,002-8 (IV, 976).

so much in order to take part in the business upon which no divergence of view occurred between representatives of urban and representatives of rural areas, as in order to use his influence towards equalising the cost of the maintenance of main roads. He found, however, at the meetings, that he had absolutely no influence in directing the policy of the Council as regards this service, which provided most, if not the whole, of the occasions for controversy between the two types of representatives: and although a few of the Borough representatives continued to take an active part in non-controversial business, most of them had come to the conclusion that the time and expense involved in attending at Ipswich were out of proportion to the value of the work done.\*

968. Similar evidence was given by Mr. Smith, Town Clerk of Luton, in regard to the lack of interest in the Borough in County Council elections,† and by Mr. Fovargue, Town Clerk of Eastbourne, in regard to the position of representatives of the Borough on the County Council before the Borough was constituted into a County Borough in 1911.‡ Mr. Fovargue particularly referred to the inability which representatives of the Borough had felt to influence the policy of the County Council in regard to the incidence of liability for the cost of the maintenance of main roads.§ He added, however, that the inhabitants of Eastbourne were no better able to bring any effective influence to bear upon the County Council in this important matter now that the Borough was severed from the Administrative County than they had been when they were directly represented on the County Council.||

969. In Torquay, according to the evidence of Dr. Mitchell Winter, the feeling of the inhabitants was similar to that which prevails in Lowestoft. The persons best qualified to represent the Borough on the County Council would not stand for election, because, in their view, the representation and influence of the Borough on the County Council were inadequate; and in consequence very little interest was taken in the elections in the Borough for the County Council, and there had only been one contested election for many years. The impression prevailed that the Borough was not fairly treated by the County Council in matters of administration, and that this position arose mainly from the facts that there were only six representatives of the Borough out of a hundred members of the County Council, and only thirteen out of the seventy-five members elected by the local government electors who came from areas which were urban in character, and in which the inhabitants accordingly had requirements for services for which the County Council were

\* Nicholson, Q. 18,470-96 (V, 1128).

† Smith, Q. 17,157 f. (V, 1049).

‡ Fovargue, M. 18 (V, 1177), Q. 19,415-6 (V, 1177).

§ Fovargue, M. 20 (V, 1177).

|| Fovargue, M. 20 (V, 1177) Q. 19,419-21 (V, 1178).

responsible different from those of the inhabitants of the remainder of the Administrative County.||

970. Mr. Collins said that his experience in acting on behalf of the Councils of Boroughs which had been constituted into County Boroughs had satisfied him that the claims of County Councils for payment from the Councils of the newly constituted County Boroughs in respect of increase of burden falling upon the County ratepayers as a result of the severance of the Borough from the Administrative County arose in a substantial degree from the loss of profit which the County Council had been making on the contributions of the Borough ratepayers to County purposes, that profit being the balance of the contributions left after deducting from the total of such contributions the cost of the services provided within the Borough boundaries by the County Council.\*

971. In his view, the claims of County Councils must be attributed in the main to an undue disparity between the burdens laid upon Borough ratepayers on account of County services and the benefits, as measured by cost, of the provision by County Councils of services in the Boroughs. The disparity was not due, in the normal case, to a higher assessable value per head in the Borough, which might result in leaving the County Council with a balance from the contributions of the Borough ratepayers even after the County Council had provided the inhabitants of the Borough with all the County services which could reasonably be required. The normal case was that the assessable value per head in a Borough constituted into a County Borough was less than the assessable value per head throughout the Administrative County; but claims were nevertheless made upon the County Borough Council, if the Borough were constituted into a County Borough, in respect of increase of burden on the County ratepayers resulting from the severance.†

972. Mr. Collins took as an example the case of Wakefield, which was severed from the Administrative County of the West Riding of Yorkshire, on being constituted into a County Borough, in 1914. Wakefield had a population on the appointed day of 53,000. It had a rateable value on the appointed day of less than £250,000; that is, the assessment per head of the population was less than £5. The average value per head was the index of the rateable wealth of the inhabitants from the local government point of view, and it was considerably less in Wakefield than the assessment per head of the population on the appointed day in the Administrative County, which was about £6 per head. The financial position which would have been expected in such circumstances was that expenditure on services would have been greater

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|| Winter, M. 28 (VI, 1231), Q. 20,554-90 (VI, 1229), Q. 20,606-10 (VI, 1230).

\* Collins, M. 20 (a) (b) (IV, 968).

† Collins, Q. 15,013-23 (IV, 922).



in the Borough, and capacity to pay greater in the County, with the result that, when Wakefield was constituted into a County Borough, the County Borough Council would have had a claim against the County Council for increase of burden on the Borough ratepayers. In fact, the severance had the opposite result. The County Council had made a claim against the Council of the County Borough for over £140,000, of which £135,000 was attributable to their claim in respect of increase of burden upon the County ratepayers as the result of the severance of Wakefield from the Administrative County. This claim of £135,000, which was the equivalent of over half the assessable value of the town in a capital sum, must be based upon the difference between the contributions previously made by Wakefield ratepayers to County expenses and the expenditure previously incurred by the County Council in Wakefield on the maintenance of main roads, the provision of higher education, contributions towards officers' salaries, and general County purposes.\*

973. The witnesses on behalf of Town Councils drew special attention to the administrative effect of the inadequate representation of urban areas upon County Councils as exhibited by the extent of the provision of certain services made by County Councils, as the Authorities responsible for those services, in Non-County Boroughs.

#### *Maintenance of Main Roads.*

974. The first of these services was the maintenance of main roads, and details of the difficulties experienced in regard to it in the Non-County Borough of Torquay were given by Dr. Mitchell Winter. He said that the Town Council had experienced, and did experience, serious difficulty and delay in obtaining approval from the County Council of schemes for widening main roads in the Borough; and that owing to alleged lack of financial resources the County Council had again and again deferred the approval of schemes which the Town Council considered urgent and necessary, and had thereby prevented the Town Council from obtaining a share of the grants available from the Minister of Transport in aid of road improvements. He was not aware whether the representatives of the Borough on the County Council, who were six in number out of a total of a hundred, or the representatives on the Main Roads Committee, who were two in number out of a total of forty, had brought these questions before the Committee or the Council with any special insistence.†

975. Again, there had been a difference of opinion between the Town Council and the County Council in 1923 on the question of the incidence of the cost of certain road widenings. The Town Council had not been able to proceed with work of this

\* Collins, Q. 15,847-52 (IV, 968), Q. 15,858 (IV, 969).

† Winter, M. 28 (VI, 1231), Q. 20,591-605 (VI, 1230), Q. 20,616-20 (VI, 1230).

kind during the war, and the cost of widening the main roads in several important parts of the Borough therefore fell upon the estimate for 1923. The result was that the estimate was increased, and the County Council, on receiving it, made reductions which the Town Council considered to be unreasonable.\*

There had been a further difference of opinion on another point as to the maintenance of main roads. The Town Council had come to the conclusion that, in order to prevent nuisance and danger to health from dust, parts of the main roads in the Borough should be repaired with granite instead of limestone. The County Council had refused to allow the use of the more expensive material, and had also refused to receive a deputation from the Town Council on the various points at issue in regard to main roads.†

976. The financial result of the County Council's attitude in settling the estimates for the current year was that the ratepayers of Torquay were called upon to pay £5,000 more than in 1923 towards the maintenance of County roads, which was equivalent to a rate of nearly 6d., while the amount contributed by the County Council towards the cost of the maintenance and improvement of main roads in the Borough was only £800 more than their contribution in the preceding year.‡

#### *Higher Education.*

977. The second service taken as an example was higher education. As regards this service, Mr. Collins said that it was common ground that such provision as was made by County Councils for secondary education was usually made within the boundaries of Non-County Boroughs; but the question was whether this provision was sufficient. His experience led him to think that a County Council mainly composed of representatives of the inhabitants of rural areas were not, as a rule, willing to provide in the Boroughs special forms of higher education from which it was not apparent that the inhabitants of rural areas in the County would derive any benefit.§ In his view, the normal position was that the ratepayers in a Non-County Borough which had a population approaching 50,000 were contributing so much to the County rate for purposes of higher education that the County Council were making a profit on their contribution. This profit arose from an undue disparity between the amount collected in the Borough towards meeting the cost of this service over the Administrative County as a whole, and the amount spent in the Borough by the County Council on provision for secondary and other higher education.||

978. His view was founded upon the explanations given to him by educational experts of the difference between the two

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\* Winter, Q. 20,683 (VI, 1234), Q. 20,690-2 (VI, 1234).

† Winter, Q. 20,683-9 (VI, 1234), Q. 20,693-5 (VI, 1234).

‡ Winter, Q. 20,683 (VI, 1234).

§ Collins, Q. 12,316-7 (IV, 756).

|| Collins, Q. 14,977-86 (IV, 920).

figures of the contribution of the Borough ratepayers to the County Council, and the expenditure of the County Council in the Borough, for this purpose. He was generally told that the meaning of the figures was that the secondary school accommodation in the Borough was insufficient; sometimes, also, that pupils requiring secondary education went out of the Borough into a larger neighbouring town; and sometimes, further, that the Town Council had been endeavouring to persuade the County Council to provide classes in subjects of special interest to students in the Borough, and had not been able to secure any such provision except with the help of a Borough institution which the Town Council had had to assist financially.†

979. Dr Mitchell Winter gave an example of the difficulties which had arisen in regard to higher education in Torquay. The County Council had provided a secondary school in the Borough. Two-thirds of the pupils were resident in the Borough and one-third in other parts of the Administrative County. They had also made provision for evening classes, which were attended chiefly by Borough students. The contributions of ratepayers in Torquay to County expenditure for purposes of higher education had been about £2,000 more in 1921-22, and about £1,200 more in 1922-23, than the expenditure of the County Council in Torquay on higher education.§

The question at issue between the inhabitants of the Borough and the County Council had been the provision of a technical school in the Borough. The County Council had refused to comply with repeated requests for the provision of such a school, and there was therefore no technical instruction available for Torquay students at any centre nearer than Exeter, twenty-six miles distant. Shortly before Dr. Mitchell Winter's evidence was given, the County Council had taken preliminary steps to secure a site for the extension of the secondary school in the Borough, and it was possible that a technical school might also be provided on part of the ground.\*

#### *Police.*

980. The third service cited under this head was the police service. Mr. Collins said that the representatives of the larger Non-County Boroughs on County Councils found that the representatives of rural areas who formed the majority of the Councils were reluctant to provide the strength of police which was required in Non-County Boroughs, or to improve the accommodation for the police by building police stations in Boroughs, because of the large increase in cost involved in making proper provision for the needs of the Boroughs, as compared with the small cost involved in making what provision was necessary in the rural portions of the Administrative County. If the matter

† Collins, Q. 14,987-90 (IV, 921).

§ Winter, M. 33-4 (VI, 1234).

\* Winter, M. 35 (VI, 1234).

were taken to a vote, the Borough representatives were bound to find themselves in a minority.†

**Capacity of Town Councils to Administer all Services.**

981. Under this head the witnesses on behalf of Town Councils generally submitted that neither in principle nor in practice was there any reason to suggest that the figure of not less than 50,000 population required to enable a proposal to be made for constituting a Non-County Borough into a County Borough should be altered on the ground of the development of the functions of County Borough Councils which had taken place since 1888.

**RESPONSIBILITIES OF COUNCILS OF NON-COUNTY BOROUGHES.**

982. On the question of principle, they submitted that Parliament had during the same period entrusted to the Councils of all Non-County Boroughs in which there was, or was likely to be, a population of 50,000, functions of more importance than the added functions which would have to be undertaken by the Town Council if the Borough were constituted into a County Borough.

983. Mr. Smith, Town Clerk of Luton, mentioned, as examples, trading undertakings for the supply of electricity, gas, water, and tramway services, the administration of housing and town planning schemes, and the administration of elementary education as now extended and developed under successive Acts of Parliament. He suggested that the Council of a Borough, if they were capable of performing these functions, could not be supposed to be incapable of performing the further functions which would be assigned to them on the constitution of the Borough into a County Borough, and that there was no reason on this ground to depart from the figure of not less than 50,000 population which Parliament had considered sufficient in 1888 to entitle a Town Council to apply to have these further functions assigned to them.\*

984. Mr. Harbottle, Town Clerk of Blackpool, drew attention to the fact that the inhabitants of a Non-County Borough could be provided by the Town Council with libraries, parks and recreation grounds, cemeteries, slaughter-houses, and almost the whole range of sanitary and public health services, before the population of the Borough reached the figure of 50,000.‡

**ADDED RESPONSIBILITIES OF COUNCILS OF COUNTY BOROUGHES.**

985. Mr. Smith enumerated under this head the services which he considered it important to take into account in determining whether the Council of a Non-County Borough having a population of not less than 50,000 would ordinarily be capable

† Collins, Q. 16,008-19 (IV, 977).

\* Smith, M. 23 (c) (f) (V, 1045).

‡ Harbottle, M. 73 (VI, 1319)

of undertaking the further work which would be transferred to them if the Borough were constituted into a County Borough. He classified the services as follows† :—

Treatment of tuberculosis in residential institutions and at dispensaries (Public Health (Tuberculosis) Act, 1921).	Maintenance of main roads and County bridges.
Treatment of venereal diseases (Public Health (Venereal Diseases) Regulations, 1916).	Administration of higher education.
Supervision of midwives (Midwives Acts, 1902 and 1918).	Provision for treatment of lunacy and mental deficiency.
Provision for blind persons (Blind Persons Act, 1920).	
Destruction of rats and mice (Rats and Mice (Destruction) Act, 1919).	
Licensing of cinematograph premises (Cinematograph Act, 1909).	

986. As regards the services set out in the left-hand column above, Mr. Smith suggested that the Council of any Non-County Borough having a population of not less than 50,000 would certainly be capable of administering these services, which did not entail any serious administrative obligations, and were far less important from this point of view than the services which the Council would already be required or empowered to administer.\*

He submitted that the decisions of Parliament in recent years to entrust the administration of these services to County Councils, to the exclusion of the Councils of Non-County Boroughs, had not resulted in securing greater economy or efficiency in their administration. In certain Administrative Counties the County Council had already delegated their functions in regard to the destruction of rats and mice, and the licensing of cinematograph premises, to the Councils of Non-County Boroughs.†

987. Mr. Smith suggested that so far as provision for the treatment of lunacy and mental deficiency ought, for economic reasons, to be administered on a large scale in order to avoid the establishment of an unnecessary number of small independent institutions, it could be so administered by co-operation between the County Councils and the Councils of any of the Boroughs concerned which were constituted into County Boroughs, and the same principle could be applied, so far as was requisite, to the treatment of tuberculosis and venereal diseases and to the supervision of midwives.§

Parliament had provided by the Lunacy Act, 1890, that the Councils of a number of Non-County Boroughs should be Local Authorities for the purposes of that Act, and the Councils of

† Smith, **M. 27** (V, 1049).

\* Smith, **M. 23** (e) (V, 1045), **M. 28** (V, 1050), Q. 17,122-38 (V, 1047), Q. 17,141-9 (V, 1048), Q. 17,175-7 (V, 1052), Q. 17,214-6 (V, 1054).

† Smith, **M. 27-8** (V, 1049), Q. 17,276 (V, 1056).

§ Smith, **M. 30** (V, 1050).

most, if not all, of these Boroughs were administering this service in co-operation with other Local Authorities.||

988. As regards higher education, Mr. Smith took Luton as an example, and submitted that in the circumstances prevailing, in the Borough the Town Council, if the Borough were constituted into a County Borough, could make satisfactory arrangements for exercising independent control of the secondary schools in the Borough, and that since the greater part of the pupils in the schools came from Luton, this arrangement would be more logical than the present arrangement under which the ultimate control of the schools rested with the County Council, of whom representatives of parts of the Administrative County other than Luton formed a majority.\*

989. Mr. Smith added that, in his opinion, there would be definite advantage in the transfer of the responsibility for the services which he had mentioned to the Luton Town Council, as the Council of a County Borough, because the administration would cost less, and would be conducted in accordance with the wishes of the inhabitants of the Borough, who would know that one Authority were responsible for all local government services (other than Poor Law services) in the town.†

990. Other witnesses gave evidence based on experience to show that the Councils of Boroughs with a population of 50,000, or even less, had proved fully competent to exercise the functions which were assigned to them on the constitution of the Borough into a County Borough.

991. Mr. Jarratt, Town Clerk of Southport, said that when the Borough became a County Borough in 1905 the population was only just over 50,000. The Council had, however, found no difficulty in administering all the services for which they became responsible as a County Borough Council, and he considered not only that there had been considerable benefit to the inhabitants of the town as a result of the change, but that generally a population of not less than 50,000, particularly if it were situated in an area of a character resembling that of Southport, was not too small for the Local Authority to have assigned to them the status of a County Borough Council.‡ The Town Council of Southport were solely responsible for the administration of the police service, for the provision of higher education (though in regard to that service they worked under a system of informal agreements with the Lancashire County Council), and for their scheme for the provision of treatment of tuberculosis in institutions.§

992. As regards the treatment of mental disease, the County Borough Council, in common with every County Borough Council

|| Smith, M. 27 (V, 1049), M. 30 (V, 1050).

\* Smith, M. 34-6 (V, 1050) Q. 17,201-9 (V, 1053).

† Smith, M. 40-1 (V, 1051), M. 43 (V, 1051), Q. 17,217-23 (V, 1054).

‡ Jarratt, Q. 15,641 (IV, 952), Q. 15,664-5 (IV, 953).

§ Jarratt, Q. 15,649-57 (IV, 952).

in Lancashire, were represented on the Joint Board responsible for making the necessary provision throughout the geographical County; but, so far as this point was relevant to the question of the constitution of County Boroughs, he submitted that the test should be, not whether there were sufficient cases in a single area of mental disease, or other diseases, requiring institutional treatment, to make it necessary for the Local Authority to establish a separate institution, but whether the Local Authority who applied for the status of a County Borough Council were prepared to discharge the responsibility of securing provision for such of the inhabitants of the area as needed it under economical and efficient arrangements.\*

993. Mr. Lloyd Parry, Town Clerk of Exeter, gave similar evidence in application to the City of Exeter, which was constituted into a County Borough by the Act of 1888 on the ground of its historic position, the population of the City at that time being between 37,000 and 38,000. This population was not substantially increased until 1900, when between 9,000 and 10,000 persons were added to it by an extension of the City boundaries. By another extension in 1913, a further 11,000 persons were added to the population of the City, and the present population was just under 60,000.†

In his opinion, the City Council had been no less capable in 1889, and between that date and the time when the City boundaries were extended, of administering the services entrusted to them as the Council of a County Borough, than they now were, and the only effect of the extensions had been to enable them to exercise their functions more freely, more fully, and more completely after 1900, and again after 1913, than had been possible before. In particular, the course of public opinion after the war had been such that all Local Authorities could perform their functions more effectively if the area over which they had jurisdiction was extended, because there was a growing public demand for services such as the provision of housing, allotments, and recreation grounds, which could only be met by a Local Authority who increased the space within which they could make provision for the needs of their inhabitants.‡

994. Mr. Bagshaw, Town Clerk of Doncaster, gave similar evidence in regard to Lincoln, of which he had previously been Town Clerk, as an example of a County of a City which had been constituted into a County Borough in 1888, although its population was at that time between 30,000 and 40,000.§

995. Mr. Harbottle, Town Clerk of Blackpool, said that the experience of the Council had been similar to that of the Town Council of Southport, particularly in regard to the administration

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\* Jarratt, Q. 15,647 (IV, 952), Q. 15,658-60 (IV, 952).

† Parry, Q. 20,790-2 (VI, 1239).

‡ Parry, Q. 20,793-7 (VI, 1239), Q. 20,815-23 (VI, 1242), Q. 20,959-71 (VI, 1243).

§ Bagshaw, Q. 21,598-607 (VI, 1285).

of a separate police force and the provision of higher education. The Council believed that since the Borough was constituted into a County Borough in 1904 the difficult problem of policing the town had been more easily dealt with, and the facilities for higher education had been improved; and he drew the conclusion that the Council of any Borough with a population of not less than 50,000 should be entrusted with the independent administration of these services.\*

### **Effect upon County Government of the Constitution of County Boroughs.**

#### **GENERAL.**

996. It was agreed on behalf of Town Councils that the severance of a Borough from the Administrative County on its being constituted into a County Borough was not without effect upon the system of County administration existing before the severance, but it was suggested that the measure of the effect in each case could only be estimated by the authorities who had to determine whether the proposal to constitute the County Borough was desirable, and that the question was one of degree which could not advantageously be discussed except in reference to the circumstances relevant to each proposal for the constitution of a County Borough as it arose. It was possible to imagine a case in which the constitution of a County Borough would have such an effect upon the area of an Administrative County as to leave the County Council responsible for the administration of scattered County Districts the inhabitants of which could not be provided with services by the County Council upon any efficient or economical plan. It was equally possible that cases might arise in which the constitution of one or more County Boroughs would occasion no more disturbance in the existing system of County administration than a County Council could reasonably be expected to overcome by a reorganization of services and personnel, coupled with the application of the provisions for financial adjustment made by the Act of 1913.†

#### **IN THE MORE POPULOUS COUNTIES.**

997. Mr. Collins submitted that on the facts stated on behalf of County Councils as to the Administrative Counties which were in their judgment affected by the prospect of the constitution of County Boroughs in future, that is, that there were nine Counties having within them Non-County Boroughs with populations already not less than 50,000, and seventeen Counties in addition having within them Non-County Boroughs with populations which might be expected to reach that figure at no very distant date, either as a result of natural increase or as a result of the

\* Harbottle, M. 28-30 (VI, 1309), Q. 22,087-110 (VI, 1309), M. 70 (VI, 1318), M. 75 (VI, 1319), Q. 22,184-8 (VI, 1320).

† Jarratt, M. 41-3 (IV, 954), Q. 15,727-31 (IV, 957).



extension of Borough boundaries,§ it would be found on consideration of the local circumstances that the Counties in which it could be seriously said there was a risk of the gradual destruction of the system of County administration owing to the constitution of County Boroughs were a minority of the total; and that accordingly it would not be reasonable to propose general legislation affecting the constitution of County Boroughs in all parts of England and Wales for the purpose of protecting the few County Councils concerned. In his opinion, the measure of disorganization caused in the system of County administration set up by the Councils of such Counties as the West Riding of Yorkshire or Lancashire by the constitution of further County Boroughs would be no more than could easily be dealt with by the officers of the County Councils, and would not result in any lasting detriment to the inhabitants who remained in the Administrative Counties.\*

If it were accepted that the question was one of degree, it would be for the proper authorities, who had to determine whether each proposal was desirable, to consider the probable effect of approving that proposal at the time when it was made; but, in his judgment, there were not more than half a dozen Administrative Counties in which there was any risk of the constitution of County Boroughs having a serious effect upon the system of County administration within the next few years.†

#### IN THE LESS POPULOUS COUNTIES.

998. Mr. Collins agreed that in other Counties, which had a smaller population mainly concentrated in a few urban centres, it would be fair to say that the prospect of the constitution of those centres, or any of them, into County Boroughs would have an effect upon the system of County administration which would be prejudicial to efficiency. In application to these Counties, of which he thought that there were probably not more than half a dozen, he accepted the argument of witnesses on behalf of County Councils that the prospect of having their resources reduced, of losing the representatives of urban centres on the County Council, and of being left to administer an area almost wholly rural in character, would be detrimental to the foresight and enterprise of the County Council in developing and improving such services as public education or the maintenance of main roads.‡

999. Other witnesses on behalf of Town Councils considered that the wishes of the Council of a Borough, in any of the less populous Counties having few urban centres, that the Borough should be constituted into a County Borough, should be held to outweigh the detriment to the inhabitants of the remainder of

§ See Dent, M. 27 (III, 465), Q. 7,125-34 (III, 473), Appendix LXIII, Table E (III, 486).

\* Collins, Q. 12,362-86 (IV, 759).

† Collins, Q. 12,357-9 (IV, 758).

‡ Collins, Q. 12,355-6 (IV, 758), Q. 12,361 (IV, 759).

the Administrative County which would result from leaving the County Council to administer an area almost wholly rural.

1000. Taking the position in the Administrative County of Cambridgeshire as an example, the late Sir Robert Fox said that he considered that the wishes of the inhabitants of Cambridge, as represented by the Town Council, that the Borough should be constituted into a County Borough, ought to prevail over the objections of the County Council. His argument was that the fact that the Administrative County contained only one large urban centre was an accident due to the delimitation of the boundaries of the County at a remote period. If the Borough of Cambridge with its present number of inhabitants were situated in another Administrative County, in which the effect upon County administration of constituting the Borough into a County Borough would be less far-reaching, it was reasonable to assume that the proposal already made by the Town Council would have succeeded. The location of the town should be regarded as an accident, and the proposal should have been dealt with on the principle that the benefit to the inhabitants of Cambridge of entrusting their affairs to a County Borough Council familiar with their requirements, and concerned with those requirements alone, was the determining consideration.\*

1001. He saw no objection to the resulting state of affairs in which the County Council would have had to administer a rural area without the financial or administrative assistance of the inhabitants of the urban area; and the suggestion that a Borough in this position should be required to remain in the Administrative County, on the ground of the necessity of the continued association of urban and rural areas under County government, appeared to him to mean that the inhabitants of a town which had its own problems and its own business, and was quite distinct from the remainder of the Administrative County, should be kept under County government for the sake of the contributions of the ratepayers in the town towards meeting the cost of the maintenance of main roads and of the provision of higher education. If it were said that these contributions were necessary in order to enable the County Council to administer the services efficiently, the answer might be that any loss resulting from the severance of the Borough from the Administrative County which the County ratepayers could not fairly be asked to make up should be recouped to the County Council at the expense of the taxpayer.†

1002. Mr. Smith, Town Clerk of Luton, suggested that the severance of urban areas from Administrative Counties should not be regarded as implying the destruction of the existing system of County government, because there was no reason why the jurisdiction of County Councils should not be confined solely

\* Fox, Q. 7434-9 (III, 495).

† Fox, Q. 7448-57 (III, 496).

to rural areas, in the same way, though on a larger scale, as was now the case with the jurisdiction of Rural District Councils. In his opinion, the most that could be said of the effect of such a procedure was that there would be detriment to the existing system of County administration; but this detriment could be met by the application of the provisions for financial adjustment made by the Act of 1913. Moreover, he submitted that certain County Councils were already limited in their jurisdiction to areas which were predominantly agricultural in character, but were able to maintain the system of County administration in spite of the absence of any considerable urban area within the Administrative County. §

## **SECTION 2.—SHOULD THE EXISTING LAW AND PROCEDURE GOVERNING THE CONSTITUTION OF COUNTY BOROUGHES BE MODIFIED?**

**Evidence on behalf of County Councils.**

**A Population of 250,000 instead of 50,000 should Entitle Town Councils to Submit Proposals.**

1003. It was clear from the late Lord Long's evidence that the Government in 1888 did not originally intend to confer County Borough status upon Boroughs on the basis of population at all.\*

The witnesses on behalf of County Councils did not consider that the Bill had been improved by the introduction of provisions which made numbers of population the ground for constituting most of the County Boroughs named in the Act, and a necessary condition of the constitution of additional County Boroughs under the Act.

But, accepting the fact that numbers of population were required by the existing law to be taken into account, they suggested that the figure of 50,000 population ultimately included in section 54 of the Act had never been a proper figure, because the lowering of the figure of 150,000 first proposed was an unwise concession which showed that Parliament had not sufficiently foreseen the future course of events in their bearing on the system of County government established by the Act. †

1004. They did not, therefore, accept the figure of 50,000 as a proper starting-point from which to consider what the figure should now be, having regard to the growth of population since 1888; nor were their suggestions for the alteration of the figure to be taken to indicate that they thought that numbers of population should be the main consideration as a positive reason for constituting a County Borough. ‡

§ Smith, M. 47 (V, 1052), Q. 17,030-6 (V, 1042), Q. 17,043-8 (V, 1043).

\* Long, M. 5 (III, 563), Q. 8786-96 (III, 564).

† Dent, Q. 6583-7 (III, 446), Q. 6722 (III, 453); Long, Q. 8786 (III, 564), Q. 8796 (III, 565).

‡ Dent, Q. 6555-60 (III, 445), Q. 6566 (III, 445), Q. 8613-4 (III, 556).

So far, however, as the question of numbers of population was relevant, they suggested, first, that 150,000, the original figure taken by the Government in 1888, should be adopted as the starting-point from which to discuss a change; and, secondly, that a suitable figure in present conditions would be 250,000.

They agreed that this figure did not bear the same relation to the whole population now as 50,000 bore to the whole population in 1888, and they did not go further than to say that the figure of 250,000 would have some relation to the figure of 150,000 which was first proposed in 1888. §

1005. Mr. Dent said that County Councils submitted this figure for discussion because the figure of 50,000 was now altogether beside the mark and entirely inadequate, and experience indicated that a figure of somewhere about 200,000 or 250,000 was more suitable if a figure of population was to be retained in the Act.\* The figure of 250,000 was supported by the late Lord Long†; and Mr. Taylor agreed with Mr. Dent that 200,000, at any rate, would be a minimum figure proper for discussion. ‡

1006. The question of the effect upon (a) the finances, and (b) the administration, of the County Council concerned of the severance from the Administrative County of a Borough having a population of not less than 250,000 was discussed in the evidence of Mr. Keen.

As regards (a) the financial effect of an alteration of area of such magnitude, he said that the greater the importance of the area severed from the Administrative County, the more detriment resulted to the County ratepayers from a financial adjustment made under the existing law and procedure. The reason was that the loss of rateable value on the basis of which the County Council had hitherto raised rates for the purpose of meeting their expenses was greater than the saving of expense to the County Council which followed from the transfer of responsibilities to the Council of the new County Borough.

It would, however, be possible to remove this objection in so far as the existing law and procedure relating to financial adjustments were modified in favour of County Councils. ¶

As regards (b) the effect of such a severance upon County administration, Mr. Keen was inclined to think that, while the resulting disturbance would be greater in the sense that it affected a larger area and a larger number of the staff of the County Council, it would not be more difficult to deal with, because a Borough having a population of at least 250,000, which Parliament might think it desirable to constitute into a County

§ Dent, M. 67 (III, 549), Q. 6548-9 (III, 445), Q. 6561-2 (III, 445), Q. 8604-6 (III, 555); Taylor, M. 32 (IV, 839), Q. 10,141 (III, 627), Q. 13,578-9 (IV, 841), Q. 13,612-4 (IV, 843).

\* Dent, Q. 6561 (III, 445), Q. 6722 (III, 453), Q. 8604 (III, 555).

† Long, M. 5 (III, 563).

‡ Taylor, M. 32 (IV, 839), Q. 13,612-4 (IV, 843).

¶ Keen, Q. 12,208-17 (IV, 750).

Borough must be assumed to be a convenient area for separate administration, and would therefore probably have been the concern of certain members of the staff of the County Council for the whole of their time. On this assumption, the constitution into a County Borough of a portion of the Administrative County having so large a population probably might not cause any greater dislocation in the administrative arrangements of the County Council than was caused under the existing law and procedure by severing smaller areas from the Administrative County. §

### **Proposals should be Granted in Exceptional Circumstances Only.**

1007. The witnesses on behalf of County Councils did not propose that statutory provision should cease to be made for the constitution of County Boroughs in the future; but they submitted that a County Borough should never be constituted unless very exceptional circumstances had been proved, and that since the existing law and procedure had in practice resulted in the constitution of County Boroughs without such proof, the law and procedure should be so modified as to alter the standard by reference to which the constitution of a County Borough had hitherto been held to be desirable.\*

#### CHARACTER OF THE TEST TO BE APPLIED TO PROPOSALS.

##### *General.*

1008. Mr. Dent, on behalf of County Councils, expressed his view of the principles which should be applied in dealing with proposals for the constitution of County Boroughs in the following passage of his evidence† :—

“ (Mr. Pritchard): There is another view which is possible, . . . and I would like to know what you think about it. What would you think upon this: that a Borough might be constituted a County Borough if, after taking into consideration all the circumstances and weighing the advantages on the one hand and the disadvantages on the other hand, it is shown to be desirable, not necessarily in the interests of both parties, but the advantages of constituting it outweighed the disadvantages on the other side?—I agree, of course, with the view that there must be a compromise. I think it is obvious that the interests of all parties cannot be the same, therefore there must be a balance, and advantages must be weighed on the one hand against advantages on the other, and the same with disadvantages. It must always be in the long run something in the nature of balancing the harm you do to one person against the good you do to another.”

Mr. Dent added that in saying that the interests of all parties must be taken into account, he did not mean that the consent

§ Keen, Q. 12,206-7 (IV, 749).

\* Dent, Q. 6719 (III, 452), Q. 6725-32 (III, 453), Q. 8610-1 (III, 556); Taylor, Q. 13,601-3 (IV, 843).

† Dent, Q. 6512 (III, 443); cf. Postlethwaite, Q. 22,310 (VI, 1326).

of the two or more parties concerned with any proposal must be obtained as a condition of allowing the proposal to take effect.†

1009. Sir William Vibart Dixon enumerated the conditions which in his opinion should be fulfilled before effect was given to any proposal for the constitution of a County Borough, as follows:—

(a) That the proper authorities must be satisfied that there was in the Borough a population of the size prescribed by statute as the condition of the right of the Council to make the proposal;

(b) That the proper authorities must be satisfied that the Borough was efficiently governed;

(c) That the proper authorities must be satisfied that County administration would not be prejudiced (in the sense in which that term was interpreted by County Councils) if the County Borough were constituted; and

(d) That the proper authorities must be satisfied that the inhabitants of the Borough would gain a definite advantage in the organization and development of local government services if the Borough were constituted into a County Borough.\*

In order to secure that the proper authorities should, in dealing with each proposal, give due consideration to the interest of all parties, it was suggested that some amendment of the existing law was desirable. "We want," said Sir William Vibart Dixon, "something clearer than the Act of 1888, in order to get away and get a new start as to what is to give a *prima facie* case for constituting a County Borough."†

1010. The late Mr. Marks, in support of the same view, said that he wanted the relevant provision of the Act so worded as to place beyond dispute its true construction, namely, that the desirability of the proposal from the point of view of the County Council (as well as other parties) had to be considered; and that it was when there was an overwhelming balance of advantage on one side or the other that the application should be granted or refused. In his opinion, section 54 had been read as meaning that if it were desirable to constitute a County Borough from the point of view of the Town Council, it would be constituted; and he considered it important to remove any doubt that the true construction of the Act was that a proposal must be desirable not merely in the interest of one party concerned with it, but in the general interest.§

† Dent, Q. 6527-30 (III, 444).

\* Vibart Dixon, Q. 10,446-54 (III, 644).

† Vibart Dixon, Q. 10,386 (III, 641).

§ Marks, Q. 13,053-61 (IV, 817).

*Capacity of Town Councils for Additional Responsibilities.*

1011. The general conclusion adopted by County Councils on this question was expressed by Mr. Dent as follows:—"No application for the creation of a County Borough should be allowed unless the Borough is itself capable of providing all services required for the benefit of the inhabitants."§

Mr. Dent said that in using the word "provide" he did not mean to exclude provision under arrangements entered into in co-operation with other Local Authorities; but he wished to prevent the constitution of a County Borough if the Town Council were not capable of providing for the inhabitants all the services required, either (a) within their own boundaries and under the administration of their own officers, or (b) under co-operative arrangements into which their financial position enabled them to enter. As regards services which the Council, acting separately, might be expected to make available within the boundaries of the Borough, his suggestion was aimed at proposals by Councils of Boroughs who had undeveloped land within the Borough boundaries, and ought to improve their provision of services before making a proposal for the constitution of the Borough into a County Borough.\*

Further, he thought that the measure of independent provision which the Town Council making such a proposal should be required to show ought to be greater than the measure expected from the Council of a County Borough or an Administrative County which had been constituted by the Act of 1888.†

*Special Considerations relating to the Cost of the Provision of Certain Services.*

1012. It was suggested by Mr. Holland that in future the severance of a Borough from the Administrative County, on its constitution into a County Borough, should not, as it is under the existing law and procedure, be complete; but that the County Borough Council should undertake a continuing responsibility with the County Council for the administration, and the ratepayers in the County Borough with the County ratepayers for paying the cost, of the following local government services throughout the geographical County:—

- (a) Maintenance of main roads;
- (b) Higher education; and
- (c) The provision of institutions which could properly be provided to meet the needs of large areas.

He said that in his opinion a great deal of the objection of the County Councils to the constitution of County Boroughs would at once be removed if a County Borough, when constituted,

§ Dent, M. 70 (III, 550).

\* Dent, Q. 8657-66 (III, 557).

† Dent, Q. 8659 (III, 557).

was not severed from the County for the purpose of the administration of these services, although the Town Council would, as at present, be entrusted with the entire management of other local government services for their area. He further considered that the administration of the services which he mentioned was most efficient and economical if it was conducted over areas of the size at least of the normal geographical County.‡

1013. As regards the maintenance of main roads, he suggested that in each geographical County which included one or more County Boroughs a single Authority should be formed, upon whom both the County and the County Borough Councils would be represented, to control the administration over the whole County.§ Such a scheme did not appear to him to present much difficulty on the side of representation, but on the side of finance the difficulties were serious.\* He thought that it would be impossible in practice to arrange that the contributions from the ratepayers in the areas of the two types of Authority towards the cost of maintaining main roads should be based upon the measure of use or benefit attributable to the inhabitants of the Administrative County and of the County Boroughs respectively.† A contribution based upon the mileage of main roads within the areas of the two types of Authority respectively would also be unsatisfactory, if only because some sections of the main roads were much more expensive to maintain than others.¶

1014. He had accordingly formed the view that the most practicable basis of contribution towards the cost of this service was an equal rate levied throughout the geographical County, which seemed to him so far as possible to distribute the burden fairly, and to be likely to secure a common standard of maintenance of the main roads.\*\* He agreed, however, that on this basis there would be a considerable transfer of the burden of the cost of the maintenance of main roads from the County ratepayers to the ratepayers in County Boroughs, and that this would no doubt be the principal objection of County Borough Councils to such a scheme. It might be necessary to take account of the existing position in County Boroughs by providing for a financial adjustment under which County Borough Councils would be entitled to make claims upon County Councils in respect of increase of burden falling upon them under the scheme; and it seemed impossible to limit the proposal for such a scheme to the County Boroughs which might be constituted in future, without giving an opportunity for a review of the position in its financial effect upon County Boroughs now existing.¶

‡ Holland, Q. 18,259-60 (V, 1116).

§ Holland, Q. 18,255 (V, 1116).

\* Holland, Q. 18,267-8 (V, 1116).

† Holland, Q. 18,270-1 (V, 1116).

¶ Holland, Q. 18,272-3 (V, 1116).

\*\* Holland, Q. 18,254 (V, 1116), Q. 18,274 (V, 1116).

¶ Holland, Q. 18,275-85 (V, 1116).



1015. As regards higher education, the contributions from rate-payers in the areas of the two types of Authorities could more easily be based on the use made by pupils from each area of the facilities for higher education existing throughout the geographical County; and the same principle should apply to contributions required for the maintenance of other types of institutions which could properly be provided jointly by County and by County Borough Councils.¶

Parliament had indeed approved such arrangements, in principle, in application to education, by passing section 6 of the Education Act, 1921\*\* ; and in practice by passing the Local Acts under which such bodies as the Lancashire and the West Riding of Yorkshire Asylums Boards had been established to make provision for the treatment of mental disease throughout these geographical Counties.††

### **Evidence on behalf of Urban and Rural District Councils.**

#### **A Population of 100,000 instead of 50,000 should Entitle Town Councils to Submit Proposals.**

1016. The witnesses on behalf of Urban and Rural District Councils agreed with the view expressed on behalf of County Councils that the figure of 50,000 population which enables a Town Council to propose under the Act of 1888 that the Borough should be constituted into a County Borough ought to be increased, on the ground that since 1888 certain services, in particular education, electricity supply, maintenance of roads, and town planning, for which a County Borough Council were responsible, had been so much developed that they could not now be efficiently administered by the Council of a town with no more than 50,000 inhabitants.\*

1017. They accordingly suggested that (a) the figure of 50,000 should be increased to 100,000† ; (b) the increased figure should be made specifically subject to review by Parliament from time to time in the light of any new circumstances which might arise‡ ; and (c) if the Census were taken quinquennially, the figures of population according to the last Census for the time being should be binding upon Town Councils.§

The ground on which 100,000 was put forward as an appropriate figure was that a town with this number of inhabitants

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¶ Holland, Q. 18,319-22 (V, 1118), Q. 18,453 (V, 1126).

\*\* Holland, Q. 18,454-8 (V, 1126).

†† Holland, Q. 18,267-71 (V, 1116), Q. 18,321-2 (V, 1118).

\* Postlethwaite, M. 6 (VI, 1326), Q. 22,336-40 (VI, 1327) ; Pindar, M. 31 (VI, 1376), Q. 23,442 (VI, 1377).

† Postlethwaite, M. 6 (VI, 1326) ; Pindar, M. 30 (VI, 1376), Q. 23,418-20 (VI, 1376).

‡ Postlethwaite, M. 6 (VI, 1326), Q. 22,324-8 (VI, 1326) ; Pindar, M. 30 (VI, 1376), Q. 23,430-3 (VI, 1377).

§ Postlethwaite Q. 22,329-34 (VI, 1327), Q. 22,344-5 (VI, 1327).

was the smallest convenient unit for the administration of all services of local government.|| “ I am not sure,” said Mr. Postlethwaite, “ that we would not put it higher if we had not desired to appear reasonable.”¶

### **Evidence of behalf of Town Councils.**

#### **A Population of 50,000 should Continue to Entitle Town Councils to Submit Proposals.**

##### **GENERAL.**

1018. The witnesses on behalf of Town Councils devoted much attention in their evidence to the question of the amendment of the provision of the existing law which enables the Council of any Borough to propose that the Borough should be constituted into a County Borough if it has a population of not less than 50,000.

1019. Of the 61 County Boroughs constituted by section 31 of, and the Third Schedule to, the Act of 1888, all except six (Canterbury, Chester, Exeter, Gloucester, Lincoln, and Worcester) were Boroughs which had on the 1st June, 1888, a population of not less than 50,000. The six Boroughs with populations of less than 50,000 which were constituted into County Boroughs were at that date Counties of themselves, that is, they were given the status of County Boroughs on account of their historic standing and not on account of the size of their population.

The 23 County Boroughs constituted since 1889 have been so constituted because the Town Council have been able to satisfy Parliament, first, that the population of the Borough at the date of the Council's proposal was not less than 50,000, and, secondly, that the constitution of the Borough into a County Borough was desirable.

##### **THE GROWTH OF POPULATION SINCE 1888 IS IRRELEVANT.**

1020. The witnesses on behalf of Town Councils submitted that, if the question of population were viewed from the proper standpoint, it was irrelevant to argue that the figure of 50,000 ought to be increased because that figure did not now bear the same proportion to the figure of the total population of the country as it had borne in 1888, and in consequence there were now many more Boroughs with populations exceeding 50,000, or approaching that figure, than there had been in 1888.

The late Sir Robert Fox expressed himself on this point as follows :\*

“ It seemed to me that an opinion of that kind was only arrived at on mathematical principle, so to speak. Whether the population of the country is greater now than it was in

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|| Postlethwaite, Q. 22,343 (VI, 1327).

¶ Postlethwaite, Q. 22,323 (VI, 1326).

\* Fox, Q. 7382 (III, 493).

the past does not seem to affect the question whether 50,000 is a fair and reasonable population to enjoy certain powers. Whatever the size of the population of the country may be, the real point is, is a self-governing unit of 50,000 about a fair thing? I believe it is."

Mr. Smith, Town Clerk of Luton, expressed the same view, and said that he had not gone into the figures, which showed that if the same percentage were added to 50,000 as had been added to the whole population of the country since 1888, the figure of 50,000 would be increased to a number between 60,000 and 70,000.†

#### AN INCREASE OF THE FIGURE OF 50,000 WOULD BE INEQUITABLE.

1021. Mr. Jarratt, Town Clerk of Southport, drew attention to the fact that the operation of the existing law since 1889 had resulted in severing the association between a large number of urban areas having populations at various dates of not less than 50,000, and the urban and rural areas which continued to make up the Administrative County concerned. Unless, therefore, the Act were repealed, it would remain impossible entirely to merge the interests of the inhabitants of urban and of rural areas in one County community. The alterations of area made under the operation of the Act had so far qualified the principle that the continued association of urban and rural areas under County government was necessary, that it would produce great inequity between the inhabitants of one urban area and those of another if the figure of population which should entitle a Town Council to propose the severance of the Borough from the Administrative County, or the principles applied to the grant or refusal of such proposals, were now to be entirely changed.\*

#### A DECREASE OF THE FIGURE OF 50,000 COULD BE JUSTIFIED ON ADMINISTRATIVE GROUNDS.

1022. The late Sir Robert Fox said that the additions made by Parliament to the functions of Local Authorities since 1888 might have inclined him to the view that the wider in scope and the more important their functions, the more desirable it would be in the interests of the inhabitants that the Council of any Borough having a population of not less than 50,000 should be given the powers of a County Borough Council. But he preferred on the whole to express the opinion that the alteration made in the functions of Local Authorities since 1888 had no bearing upon the figure of population inserted by Parliament in the Act of 1888, as the proper figure at which the Council of a Borough should be entitled to make a proposal for the constitution of a County Borough.‡

† Smith, Q. 17,091-100 (V, 1046).

\* Jarratt, Q. 15,664-5 (IV, 953).

‡ Fox, Q. 7398 (III, 494).

1023. Mr. Collins went somewhat further in saying that the tendency of legislation affecting Local Authorities since 1888 had convinced him that the Council of a Borough having a population of between 40,000 and 50,000 now had a stronger case for proposing that the Borough should be constituted into a County Borough than they would have had in 1888. Parliament since that date had entrusted a number of functions to the Councils of Counties and of County Boroughs alone, with the result that in a Non-County Borough, whatever the size of its population, certain very important services, such as higher education, and a number of services of minor importance, were administered not by the Town Council but by the County Council. The greater share of administration within the towns thus allotted to County Councils in his opinion strengthened the claim of a Town Council that the town should be constituted into a County Borough as soon as the existing law allowed such a proposal to be made.‡

1024. At the same time, he did not wish to suggest that the figure of 50,000 should be reduced. That figure had become ingrained in the minds of public men who were responsible for the administration of local government, and any change in it would not be welcomed by them, because they would have to readjust their efforts to secure the status of a County Borough for the town in relation to any new figure which was fixed.\*

1025. The late Mr. Nicholson suggested that the requirement of the existing law that a Borough should have a particular population before the Council were entitled to apply for the Borough to be constituted into a County Borough might be replaced by a provision that the Council of a Borough who desired to assume responsibility for the administration of any local government service hitherto administered in the Borough by the County Council should be entitled to represent to the proper authorities that they could administer the service more economically and more efficiently by means of their own staff and at the expense of their own ratepayers.

He suggested that this principle might be applied to the Council of any Borough which had a population so large as 30,000, but the main point in his mind was that the transfer of responsibility for particular services to Town Councils should depend upon the proved capacity of the applicant Council to administer the service rather than upon the numbers of the population in their area.†

1026. Dr. Mitchell Winter thought that any fixed figure of population must prove inequitable in application to towns in which special circumstances prevailed, and suggested that if the Council of a Borough could prove themselves qualified to undertake complete responsibility for the administration of the town to

‡ Collins, Q. 12,338-40 (IV, 757).

\* Collins, Q. 12,341 (IV, 757).

† Nicholson, Q. 18,954-67 (V, 1161).

the satisfaction of the proper authorities, they should be entitled to independent status without regard to the numbers of the population in their area.

If the law were amended to this effect, the Council of a Borough with a population of less than 50,000 would be entitled to make a proposal; and although it would probably be difficult for the proposal to succeed in view of the minimum limit of 50,000 which had applied since 1889, he considered it right that the Councils of such Boroughs should no longer be precluded from putting forward an application if they believed that they were capable of administering on their own responsibility all the services required by their inhabitants.†

#### ADMINISTRATIVE EFFECT OF INCREASING THE FIGURE OF 50,000.

##### *Upon Boroughs.*

1027. Mr. Collins said on behalf of Town Councils that, in his view, the Councils of Boroughs which had a population approaching 50,000 depended upon the prospect of the Borough being constituted into a County Borough as the principal reason which stimulated them to improve the administration of the town. He considered that Parliament had recognized, by making the Councils of Boroughs with populations less than 50,000 the Local Authorities for certain specific purposes, that it was desirable to encourage such Councils to look forward to a time when they might become independent for all local government purposes. But the point at which this motive became strongest, and was most influential in securing better administration, was the point at which the population had reached 40,000 and was approaching 50,000. The Council of a town of this size were likely to be specially affected by the wish to assume responsibility for services which had been assigned by Parliament, since 1888, to County Councils throughout the Administrative County. If the incentive offered by the existing law relating to the constitution of County Boroughs were weakened, the Councils of such towns, while they would remain anxious to discharge their statutory duties efficiently, would not be willing to take steps to develop the town or to provide new services. The spirit which at present moved the Councils to these activities was beneficial to the inhabitants and ought not to be discouraged.\*

1028. The practical effect of the provision of the Act of 1888 which enabled the Council of a Borough having a population of not less than 50,000 to apply for the Borough to be constituted into a County Borough was to stimulate the Councils concerned to undertake schemes for the benefit of their inhabitants so as to anticipate the requirements of a larger population, and the future development of local resources, before the population reached the

† Winter, Q. 20,456-76 (VI, 1225); Smith, Q. 17,123 (V, 1047).

\* Collins, Q. 12,264-92 (IV, 753), Q. 12,342-5 (IV, 757), Q. 12,348-54 (IV, 758).

figure which entitled the Council to make a proposal under the Act. The result was that the Council of a Borough with a population approaching 50,000 felt a special incentive to go forward with any scheme which was likely to bring the population up to the statutory figure, and, further, realized that in order to show, when the time came, that their proposal was desirable, they must prove the town to be possessed of all the essential public services and to be well administered. If, therefore, the Borough had within it any insanitary areas, or was in need of street improvements, or of further accommodation in secondary schools, the Council would show special energy in making good these deficiencies so long as they had before them the prospect of being able to apply successfully for the Borough to be constituted into a County Borough. It could not be expected that the Council of a Borough who had not before them the prospect of the town being allowed to benefit by any improvements made in it would show the same energy on behalf of their inhabitants, since the effect of the improvement from the financial point of view would be to increase the assessment upon which rates for County purposes were levied, without securing any return in the provision of better services from the County Council, who would continue to have jurisdiction within the Borough.†

*Upon Administrative Counties.*

1029. Mr. Collins suggested that if there were any detriment to County administration under the existing law as a result of the constitution of County Boroughs, the measure of that detriment must increase with any increase in the size of the population required to enable the Council of a Borough to propose that the Borough should be constituted into a County Borough.

In his opinion, the result of increasing the figure of 50,000, and thereby postponing the date at which the Council of a given Borough could apply for the severance of the Borough from the Administrative County, would be—

(a) To increase the disparity between the contributions of the Borough ratepayers towards meeting the cost of County services, and the expenditure of the County Council on the provision of services within the Borough;

(b) To encourage the natural tendency of County Councils to refrain from entering into permanent commitments for the purpose of developing services within the Borough; and

(c) To increase the sum which the Town Council would be required to pay to the County Council, if the Borough were ultimately constituted into a County Borough, in respect of the increased burden thereby thrown upon the County ratepayers.\*

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† Collins, M. 15-18 (IV, 927), Q. 15,122-37 (IV, 927).

\* Collins, M. 52 (IV, 996), Q. 16,385 (IV, 997).

1030. If he were asked to contemplate the adoption of the proposal made on behalf of County Councils that the present figure of 50,000 should be increased to 200,000 or 250,000, his view would be that the dislocation of County administration resulting from the constitution of a County Borough of this size would certainly be serious, and might even be destructive of the whole system; and that the financial adjustment required between the County Council and the Council of the new County Borough would be a transaction of such difficulty that it could not be carried out without introducing incurable confusion into the affairs of both Authorities. He considered the proposal to increase the figure of 50,000 to 250,000 equivalent to a proposal to repeal the power to constitute County Boroughs, because it would be impossible for the Town Council to undertake to provide, for a population of a quarter of a million, the services for which they would become responsible as from the appointed day; and it might be equally impossible for the County Council to continue to administer a system under which responsibility for the services required by that number of their inhabitants was removed from them on the appointed day.†

#### LIMITS OF THE PROBLEM UNDER THE EXISTING LAW.

1031. The witnesses on behalf of Town Councils who devoted special attention to the question of the extent to which County Councils might expect their administration to be affected by the constitution of County Boroughs in future, suggested that the prospective effect of leaving the existing law and procedure to operate could be sufficiently measured by having regard to the urban areas which at the present time had populations exceeding, or approaching, 50,000.‡

The facts as regards such areas are that there are 11 Non-County Boroughs which had a population of not less than 50,000 in 1921; 42 Non-County Boroughs which in that year had a population of not less than 30,000 but less than 50,000; and 19 Urban Districts which had in that year a population of not less than 40,000.\*

1032. The witnesses who relied upon the facts as they were in 1921 nevertheless agreed that, in order to view the problem as a whole, it was necessary to take into account the prospective effect upon County administration of (a) extensions of the boundaries of Non-County Boroughs which would bring the population of particular Boroughs up to a figure of not less than 50,000, and would thereby enable the Town Councils to propose that the Boroughs should be constituted into County Boroughs; and (b) amalgamations or extensions of Urban Districts under section 57

† Collins, M. 20-22 (IV, 968), Q. 16,386 (IV, 997).

‡ Smith, Q. 17,010-3 (V, 1042), Q. 17,029 (V, 1042); Winter, M. 3-4, 8 (VI, 1217).

\* See Dent, Appendix LXIII, Tab'le E (III, 486).

of the Act of 1888, which, if the Districts subsequently became Boroughs, might place the Town Councils concerned in a position to propose that the Boroughs should be constituted into County Boroughs.†

### Character of the Test to be Applied to Proposals.

#### ADEQUACY OF THE EXISTING LAW.

1033. The late Sir Robert Fox did not consider it desirable to substitute for a figure of population, or to combine with a figure of population, by a statutory provision, some alternative characteristic, such as a minimum acreage or density of population, which a Borough should be required to possess before the Town Council could propose that the Borough should be constituted into a County Borough. His view was that the provisions of the existing law, which resulted in practice in securing full consideration of these questions and of all other local circumstances, were satisfactory, in that they directed attention to the main question, which was how many people could properly be governed and provided with the services which they required within a given area by a single Local Authority.‡

1034. Sir David Brooks, while not suggesting any alteration of the figure, said that in his opinion the tendency of legislation since 1888 had been such that, if the question of the population which should entitle the Council of a Borough to propose that the Borough should be constituted into a County Borough were being considered afresh to-day, he would think that it was very likely that the figure of population would be raised above 50,000; but, as an alternative to the adoption of a higher figure, he thought that the requirements of local government administration in its present stage of development could better be met by diminishing the number of separate Local Authorities, either by amalgamation of the smaller areas, or by the inclusion of such areas within the boundaries of Boroughs or County Boroughs.§

#### PRIMARY IMPORTANCE OF GOOD GOVERNMENT.

1035. The witnesses on behalf of Town Councils submitted that the intention of section 54 of the Act of 1888 was that greater weight should be attached to the question of policy which arose in considering whether it was desirable to constitute a Borough into a County Borough, than to the question of fact whether the population of the Borough was not less than 50,000. That figure had been arrived at, after considerable discussion, as a suitable figure of population to entitle a Town Council to have resort to the provisions of the section; but the main question which had to be decided under the section was whether a town

† Smith, Q. 17,014-28 (V, 1042); Winter, Q. 20,328-403 (VI, 1219).

‡ Fox, Q. 7611-3 (III, 510), Q. 7622-6 (III, 510).

§ Brooks, Q. 14,308-16 (IV, 885).



which had a population of not less than 50,000 could fairly and reasonably be entrusted by Parliament with certain powers of self-government.\*

1036. Sir David Brooks suggested that it had been established to the satisfaction of Parliament in 1888 that a town with such a population would necessarily possess such self-contained interests and responsibility as to place it, both industrially and otherwise, outside the scope of County government†; and Mr. Smith, Town Clerk of Luton, expressed the view that the size of the population was not the essential criterion, but that the administrative activities, capacity, and reputation of the Borough should be the principal questions to be taken into account in determining whether it was desirable to sever the Borough from the Administrative County.‡ These questions could be investigated and determined under the procedure provided by section 54 of the Act, and the proper view of the meaning of the section was that the quality of the administration of the Borough was more important than the quantity of its population.§

#### WEIGHT TO BE GIVEN TO THE WISHES OF THE INHABITANTS.

1037. Mr. Smith further submitted that if the Council of a Non-County Borough, who were the representatives of the inhabitants, were satisfied that they were carrying out the wishes of the inhabitants in making a proposal that the Borough should be constituted into a County Borough, the wish so expressed should be treated with respect, and that regard should be paid to the fact that in certain instances the population of the Borough, on behalf of whom such a proposal had been made, were a large proportion of the total population of the Administrative County.¶

### CHAPTER XII.—ON QUESTIONS OTHER THAN PROCEDURE AFFECTING ONLY THE EXTENSION OF COUNTY BOROUGHES.

#### SECTION 1.—WHAT ARE THE PROPER CONDITIONS OF THE EXTENSION OF THE BOUNDARIES OF COUNTY BOROUGHES?

##### Evidence on behalf of County Councils.

##### Proposals should be Limited to Adjustments of Boundaries.

1038. The general view of the witnesses on behalf of County Councils in regard to the conditions under which the boundaries of County Boroughs should be extended was that in future

\* Fox, Q. 7380 (III, 493), Q. 7398 (III, 494), Q. 7611 (III, 510).

† Brooks, M. 13 (IV, 885).

‡ Smith, M. 23 (d) (V, 1045).

§ Smith, Q. 17,122-3 (V, 1047).

¶ Smith, M. 23 (h) (V, 1046).

extensions should be authorized only in cases in which the proper authorities were satisfied that it was desirable to allow a moderate adjustment of boundaries; and that while extensions might be desirable in exceptional cases, they should never be carried to a point at which they became dangerous to the life of any Administrative County as a community distinct in kind from a County Borough, and as much entitled to have its separate character preserved.\*

1039. Mr. Dent drew attention to certain figures relating to the size of the areas (a) added to County Boroughs, or (b) included in representations in favour of the extension of County Borough boundaries, during various periods since 1888, for the purpose of supporting the view of County Councils that since that date County Borough Councils had formed a new conception of the character of the alterations in the boundaries of County Boroughs which could be made under the existing law and procedure.

1040. The figures relating to the areas added to County Boroughs were as follows† :—

*Extensions of County Borough Boundaries.*

Years.	Total Number of Ex- tensions.	Extensions covering					
		Under 500 acres.		Between 500 and 1,000 acres.		Over 1,000 acres.	
		Num- ber.	Percentage of Total Number.	Num- ber.	Percentage of Total Number.	Num- ber.	Percentage of Total Number.
1889-1898 ...	37	17	45·95	5	13·51	15	40·54
1899-1909 ...	33	10	30·30	4	12·12	19	57·58
1910-1919 ...	28	8	28·57	6	21·43	14	50·00
1920-1922 ...	11	2	18·18	2	18·18	7	63·64
	109	37	—	17	—	55	—

\* Dent, Q. 6720-1 (III, 453), Q. 8437-41 (III, 550).

† Dent, M. 18-9 (III, 451), Appendix LXIII, Table A (III, 481).

1041. The figures relating to extensions, or proposals for the extension, of County Borough boundaries which Mr. Dent cited as typical examples were as follows\* :—

*Extensions or Proposed Extensions of County Borough Boundaries.*

Date of Representation.	County Borough Council concerned.	Representation by County Borough Council.	Area (acres) included in	
			Provisional Order made by Minister.	Order as Confirmed by Parliament.
1909	Birmingham ...	30,338	Slight reduction of area.	30,123
1919	Nottingham ...	39,579	Minister refused to make any Order.	—
1919	Sheffield ...	107,158	6,686	6,686
1920	Leeds ...	32,818	16,521	{ Provisional Order Confirmation Bill rejected by House of Commons on Second Reading.
1920	Bradford ...	30,453	10,149	
1920	West Bromwich	12,569	{ Proposals postponed on the Minister's initiative before Local Inquiry.	
1920	Walsall ...	13,640		
1921	Wolverhampton	12,989	10,861	Provisional Order Confirmation Bill withdrawn by Minister.

1042. Mr. Dent said that the foregoing figures had deepened the apprehensions of County Councils as to the operation of the existing law and procedure. Their apprehensions were due to the increasing acreage, not only of the areas added to County Boroughs, but also of the areas covered by the proposals which County Borough Councils more and more tended to make. County Councils considered that the figures were to be interpreted as showing that County Borough Councils were no longer content to resort to the existing law and procedure for the proper purpose of facilitating adjustments of boundaries, but had made up their minds to attempt to parcel the area of Administrative Counties between them by many thousands of acres at a time, always including in their proposals the most valuable urban areas within their reach. One such extension might well have comparatively little harmful effect upon a large Administrative County, such as the West Riding of Yorkshire, though it would be serious in a smaller area. But when such proposals were made, as they had been recently, in almost every Session of

\* Dent, M. 20 (III, 451).

Parliament, and further extensions were threatened on every side, it was obvious that the cumulative effect upon County administration was destructive.\*

1043. The typical examples to which Mr. Dent referred us as showing that the County Councils' interpretation of the facts was correct have been set out in the table in paragraph 1041 above. With the exception of the cases in which, in 1911, the boundaries of Birmingham were extended by the addition of about 30,000 acres to the City, and in 1921, the boundaries of Sheffield were extended by the addition to the City of about 6,600 acres out of about 107,000 acres included in the City Council's proposal, they are cases in which no extension of boundaries has resulted from the proposal.

1044. Mr. Dent regarded the proposal of the Birmingham City Council, which had been so far successful that the area included in the representation had been subjected only to slight reduction (first by the Minister and secondly by Parliament), as the first manifestation, in his words, "of what is now known as the 'zonal' extension policy."† He explained that the adjective "zonal" was one which he would apply to extensions or proposals for extensions which covered over 10,000 acres, and in some cases up to 100,000 acres, of land which could in no sense be called a part of the County Borough, but was included in proposals for the purpose of extending the jurisdiction of the County Borough Council concerned to a wide zone of country outside what might be taken as the County Borough proper. He suggested as an alternative explanation of his meaning that the proposals which he had in mind aimed at "carving the country up into spheres of influence."‡

1045. The statistics submitted to us show that since 1888 the boundaries of County Boroughs have been extended by the addition of more than 10,000 acres to the Borough in four instances.§

Mr. Dent's argument related, however, rather to the scope of proposals as originally made by County Borough Councils than to the measure of success which had attended such proposals. He explained that most of the relevant proposals had been resisted by County Councils concerned, and that not many in the last few years had been granted, at any rate without substantial modification of their original extent. But he referred to them as showing the tendency of County Borough Councils constantly to increase their demands for additions to their areas, a tendency which he attributed to what he called an increase

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\* Dent, M, 24-5 (III, 465).

† Dent, M. 20 (III, 451).

‡ Dent, Q. 6741-3 (III, 453).

§ 1898, Bolton, 12,922 acres added by Local Act; 1899, Bradford, 12,088 acres added by Provisional Order Confirmation Act; 1911, Birmingham, 30,123 acres added by Provisional Order Confirmation Act; and 1918, Swansea, 16,398 acres added by Provisional Order Confirmation Act. For the figures see Ministry of Health (Gibbon), Appendix XXIII, Table B (I, 182).

of appetite, and not to the growth of the population, the fact that transport facilities made it more easy for the inhabitants of the County Boroughs to live outside the Borough boundaries, or the pressure upon vacant building land within those boundaries.\*

The figures of the area in acres affected by proposals for extension which he quoted did not distinguish between land covered with buildings and agricultural or unoccupied land; but he expressed the view that a characteristic of recent proposals had been the very large extent of land affected which was mainly rural in character. The opinion of County Councils was that County Borough Councils had formed a conception of municipal government as requiring a large territory surrounding the urban centre to be included in County Boroughs in order to enable the Councils to provide for future developments, whether or not that territory was at the time of inclusion in any degree itself urban in character.†

So far as County Borough Councils wished to obtain such zones or spheres of jurisdiction, they were led to make periodical proposals for the inclusion in their areas of a certain amount of unoccupied land, with the result that uncertainty was introduced into County administration.‡

1046. County Councils considered that the existing law and procedure did not offer them adequate protection against the success in future of proposals of the same type.

Mr. Dent thought that the tendency which he had in mind, having originated with the Birmingham case, had been developed within the ten years from 1909 to 1919; that is, that during this period the County Borough Councils had departed from a pre-existing policy under which down to 1909 substantially every extension of boundaries for which they had asked was an extension on the fringe of an existing town and was limited almost exclusively to localities which were already built on. The change of policy which he detected in the succeeding period was a change on the part of the County Borough Councils, but County Councils suggested also that in cases dealt with by Provisional Order procedure the Minister had been inclined to consider proposals for extensions covering large areas with undue favour, and had thereby encouraged the change of policy and the submission of further proposals of the type against which the criticism of County Councils was directed.§

1047. The argument of County Councils was, in short, that while it could not be said that in the proposals which had hitherto been sanctioned by Parliament (with the one exception of the extension of Birmingham sanctioned in 1911) there had been

\* Dent, Q. 6744-7 (III, 453), Q. 6736-8 (III, 453).

† Dent, Q. 6739-40 (III, 453), Q. 6763 (III, 454).

‡ Dent, Q. 6767-8 (III, 454).

§ Dent, Q. 6775-96 (III, 454), Q. 6809-14 (III, 456), Q. 6818-9 (III, 456), Q. 8455-6 (III, 550).

anything which had gone beyond what might reasonably be thought to be required by the growth and movement of the population, the extensions of County Boroughs already made had gone far enough if the existing system of County government was to be safeguarded.†

Further extensions of the magnitude contemplated in recent proposals by County Borough Councils must, if effect were given to them, introduce organic alteration into that system which the County Councils believed to be detrimental to the administration of local government as a whole; and they accordingly asked for such modification of the existing law and procedure as would make it clear that the Act of 1888 was not intended to bring about this result‡.

### **Evidence on behalf of Town Councils.**

#### **Proposals should Follow Movements of Population and Industry.**

1048. The witnesses on behalf of Town Councils submitted that any modifications of the existing law and procedure which had the result of deferring proposals to restore the balance of a community in which the population had overflowed, or the development of building had outgrown, the existing boundaries of a County Borough, would have the result that any County Council affected would derive a continuously increasing advantage from the disparity between the amount raised in rates from the area which ought to form part of the Borough, and the expenditure of the County Council on the provision of local government services in that area; that the inhabitants of the area which ought to form part of the Borough would be increasingly prejudiced by the tendency of the County Council to refrain from providing proper services in the area, in so far as such provision would involve the erection of more or less permanent buildings of the character of schools, police stations, or public offices; and that if at any time the balance of the community were restored by the extension of the boundaries of the County Borough, the delay would on the one hand increase any injurious effect which the severance of the added area from the Administrative County might have upon County administration, and would on the other hand increase the amount which under a financial adjustment the ratepayers of the County Borough would be required to pay in consideration of the burden placed upon the ratepayers of the County in consequence of the alteration of boundaries.\*

#### **EFFECTS OF THE APPLICATION OF THIS PRINCIPLE.**

1049. The witnesses on behalf of Town Councils submitted that an examination of the effects of the application of the

† Dent, Q. 8471-2 (III, 551).

‡ Dent, M. 59 (III, 549), Q. 8446-52 (III, 550).

\* Collins, M. 52-4 (IV, 996); Howell, M. 31 (VI, 1279).

principle that proposals for extension should follow the movements of population and industry would show that the advantages secured by extension were not counterbalanced by any disadvantage to the inhabitants either of Administrative Counties or of County Boroughs which should be considered to indicate that the existing law and procedure required alteration.

#### GENERAL EFFECTS.

##### *Reduction in the Number of Local Authorities.*

1050. First, the operation of the existing law and procedure was a means of securing the abolition of Local Authorities who had jurisdiction over an area insufficient in population or resources to enable the Authorities to provide efficient and economical administration.

1051. They urged that the provisions of section 54 of the Act of 1888 were from this point of view essential as an alternative to the exercise of the powers of County Councils under section 57, and that in practice the only way in which the excessive number of Local Authorities with separate jurisdictions could be reduced was either to lay upon the Minister of Health the responsibility for initiating proposals to that end, or to accept the principle that if the areas of any such Authorities were near the boundaries of a large and well administered town, and were adapted to receive services from the Council of that town, it was reasonable to consider any proposal by the Town Council for the inclusion of the areas affected within the boundaries of the town.\*

1052. The late Sir Robert Fox suggested that the minimum population which could be expected to provide the resources necessary to enable an area to be efficiently administered was not below 10,000, and that no Local Authority should be established or maintained with jurisdiction over an area containing a smaller population.†

If the proposal to entrust further powers to the Minister of Health for this purpose were not well received, he urged that the present facilities enabling County Borough Councils to make proposals with the same object should not be curtailed. "If," he said, "there are a number of those Authorities near a County Borough, I say the proper thing is to combine them with the County Borough, and have urban government over the whole lot. But in addition, there may be quite a number of these Urban Districts which have not the advantage of having an urban centre in a big town, and something ought to be done to bring them together. They ought to be combined to make a better unit of local government nearer the figure of 10,000 population."‡

\* Fox, M. 41-6 (III, 502) ; Brooks, Q. 14,317 (IV, 886).

† Fox, Q. 7627-30 (III, 551), Q. 7633-7 (III, 551).

‡ Fox, Q. 7651 (III, 511).

1053. On the general question whether the advantages of extension of the boundaries of County Boroughs in reducing the number of separate Local Authorities were counterbalanced by the effect on County administration of the severance from the Administrative County of the areas added to the County Boroughs, Sir David Brooks said, in reference to the extension of Birmingham in 1911, that the primary consideration which had justified the extension was that the whole area of the extended City contained a single community requiring unified administration, and the same standard of local government services, towards which the ratepayers of the whole area could properly be called upon to contribute.§

1054. There was no evidence, in his view, that the administration by the County Councils concerned of such an important service as public education had been dislocated as a result of the extension, or that the inhabitants of the residue of the Administrative Counties affected had suffered any educational disadvantage. The County Councils appeared to him to have remained equally anxious to discharge their duties and exercise their powers as Local Education Authorities; they had retained the same principal officers for education; and they and their Committees had probably been able to concentrate more effectively on the educational problems of the rural and semi-rural areas left in the Administrative Counties after the extension of the City, which differed from the problems arising among concentrated urban populations. It might be the fact that the loss of the contributions in rates from the areas added to the City had caused an increase in the County education rates, but it must be remembered that the education rates in each County affected had always been much less than those in Birmingham, and further, that the Government had given, both in the past and recently, considerable financial assistance to ratepayers in rural areas which was not afforded to urban ratepayers.\*

On the other hand, he submitted that had the obligations placed upon Local Education Authorities by the Act of 1918 fallen upon the eight Local Authorities who would have been responsible in the added areas if the extension of the City had not taken place, there would have been inevitable educational disadvantage to the inhabitants of the whole area, who in his view were one community, arising from differences of practice, and possibly differences of opinion, between the numerous Authorities concerned with what ought to be treated as a single scheme of education.†

1055. In his judgment, it was only reasonable to assume that the positive benefit to the systems of public education in Administrative Counties which he thought could be shown to have

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§ Brooks, M. 38 (IV, 913).

\* Brooks, M. 37 (IV, 913), Q. 14,905-17 (IV, 915).

† Brooks, M. 39 (IV, 914).



followed the extension of Birmingham would also be found to have followed the extension of other County Boroughs.†

*Advantages Secured by Unified Administration.*

1056. The late Sir Robert Fox was invited to express an opinion on the question whether any maximum limit of population should be fixed as suitable to be placed under the jurisdiction of a single County Borough Council. He said in reply that he would not consider it desirable to prescribe such a limit by statute, but that the question was one which ought to be considered by the authorities empowered to determine whether a proposal to extend the boundaries of a County Borough was desirable. In his view, the answer to the question would depend upon the facts of the proposal under consideration, but in general he thought that the boundaries of a County Borough should be so determined that the normal increase of population, within a reasonable period, would not bring the whole population under the jurisdiction of the County Borough Council above the number of one million.§

If it were proposed by the Council of a County Borough to increase the population under their jurisdiction by the inclusion of another area in the Borough to an extent which would bring the total population, immediately or in the near future, above this figure, it should be for the proper authorities to consider whether, as an alternative to the proposal of the County Borough Council, it would be more desirable to form a combination of the proposed added areas under the jurisdiction of a separate Local Authority. The question was one of fact which could not reasonably be determined in the abstract, and although it was possible that certain great towns might ultimately grow together in such a way as to make the problem of practical importance, he did not consider that it would be desirable to impose a limit in advance either upon the area over which a single County Borough Council might exercise jurisdiction, or upon the total population which might be placed under the jurisdiction of a single County Borough Council as a result of the inclusion of County Districts in the Borough.\*

1057. Sir David Brooks was able to express an opinion on this question in the light of the facts in Birmingham, where the population of the City has increased by nearly 100,000 since the extension of boundaries in 1911, and in 1923 was in round figures 936,000.† He said that his personal view was that, subject to the possibility of certain further extensions which would be in the nature of adjustments of boundary, the City had now reached a proper limit both of area and of population for effective local government by a single County Borough Council. In expressing this view he was assuming that the Council would retain their jurisdiction over the area included in the City in 1911, which was not yet fully developed, so that it would be possible for the

† Brooks, M. 41 (IV, 914).

§ Fox, Q. 7544-51 (III, 506).

\* Fox, Q. 7563-71 (III, 507), Q. 7614-21 (III, 510)

† Brooks, M. 19 (IV, 898).

population under their jurisdiction to reach an ultimate total of two millions, when the undeveloped area within the City boundaries was filled up.‡

He considered that if the Council were left with their existing jurisdiction they could adapt their administration to meet the requirements of a population ultimately numbering two millions, because the area of their jurisdiction would be settled, and they would not be called upon suddenly to undertake the administration of services for a largely increased population. It was true that when the increase of population had proceeded to a certain point the representation of the various wards would need to be revised; but it did not necessarily follow that the number of wards must be increased, with the result of enlarging the Council, because the population of the central wards was stationary or diminishing, while that of the suburban wards was increasing, so that the situation might be met by a redistribution of representation which left the Council at the existing total number of 120, including 30 aldermen.§

1058. In relation to the general question of the maximum population over which a single County Borough Council could properly exercise jurisdiction, the late Sir Robert Fox was asked whether he had contemplated the possibility of a division of the functions of local government, within a County Borough containing a population beyond a certain size, between the principal Authority and a number of subordinate Authorities, on the lines of the system prevailing in London between the London County Council and the Metropolitan Borough Councils.

He replied that such a solution might or might not be found desirable if the population of any County Borough increased beyond the limit of one million which he had indicated for consideration. He did not, however, think that it followed that if a population greater than this were collected together, the proper form of local government to apply to it would be to constitute a superior Authority with jurisdiction over the whole population in conjunction with other Authorities having restricted powers. He inclined to the view that the analogy of a County Council levying a rate for the whole area, together with Borough Councils levying rates for separate purposes within the Boroughs, while contributing to the County Rate, should not be applied, but that it might be assumed, so far as it was necessary or desirable to consider the local government of the future, that, within the boundaries assigned to a County Borough by law, the County Borough Council themselves could best meet the requirements of any population which might come into being within those boundaries.\*

1059. If and when the population of one million of which he had tentatively spoken was exceeded as a result of

‡ Brooks, Q. 14,679-81 (IV, 904), Q. 14,687-94 (IV, 904).

§ Brooks, Q. 14,751-3 (IV, 906), Q. 14,762-73 (IV, 907), Q. 14,785-92 (IV, 907).

\* Fox, Q. 7552-31 (III, 507).

development within the existing boundaries of a County Borough, he agreed with Sir David Brooks that the capacity of the Council of a great City was such that they could meet the growing demand upon them for the administration of services for the larger number of inhabitants. He did not accept the suggestion that there was any ground for modifying the system of local government by a County Borough Council merely for the purpose of giving the inhabitants an opportunity of voting for representatives on subordinate Authorities in smaller constituencies than the constituencies from which their representatives were elected to the Authority who had general control of the local government of the City.†

#### *Maintenance of Local Interest.*

1060. The witnesses on behalf of Town Councils submitted that there was no foundation for any suggestion that the inhabitants of County Districts which were added to County Boroughs became less interested in local government than they had been before the extension.‡

The late Sir Robert Fox mentioned, as an example, that since the extensions of the City of Leeds in 1912 and 1919, he had been impressed by the active interest taken by inhabitants of the added areas in the government of the City. He thought that owing to the fact that an added area was very often to some extent a dormitory of the town, the people who were resident there seemed to have more time to think about the local government of the City than those who lived nearer to its centre. Further, it was the case in one of the areas concerned that the extension of the City had brought the inhabitants nearer to the seat of local government than they had been when their area formed part of a County District.§

Sir David Brooks gave evidence to the same effect in regard to the interest taken in public affairs by the inhabitants of areas added to Birmingham in 1911. He agreed that the matter was not one which was capable of strict proof, but from his experience in meeting representatives of the added areas on the City Council every week, either on Committees or in the full Council, he thought that it was fair to say that their interest in the administration of the extended City was quite as keen as the interest which they had shown in the administration of their areas before their inclusion in the City.\*

#### *Enlargement of Representation.*

1061. The witnesses on behalf of Town Councils submitted that the inhabitants of areas added to County Boroughs as a rule

† Fox, Q. 7558-62 (III, 507), Q. 7572-602 (III, 508).

‡ Lang-Coath, M. 36 (VI, 1201).

§ Fox, Q. 7605-10 (III, 510).

\* Brooks, Q. 14,604-13 (IV, 902).

obtained a greater measure of effective representation on the County Borough Council than they had enjoyed under the system of County government.

1062. In the first place, the arrangement of wards consequent upon the extension usually had the result of assigning a larger proportionate representation to the inhabitants of added areas than to the inhabitants of the old Borough, because the added areas were not so thickly populated as the centre of the town, but were given the same number of representatives as the central wards, although they had at the time a smaller number of electors, in order to provide for the subsequent increase of population anticipated as a result of the development of the added areas.†

1063. Secondly, it was suggested that the numerical representation on the County Borough Council assigned to the inhabitants of added areas might be more satisfactory than the representation which they had previously secured on the County Council.

1064. Mr. Harbottle, Town Clerk of Blackpool, said that when in 1917 the Urban District of Bispham-with-Norbreck, which had an estimated population of 3,000, and part of the parish of Carleton (then in the Fylde Rural District), which had an estimated population of 124, were added to the County Borough, the representation given to Bispham on the County Borough Council was three members out of a total membership of 52. Both the added areas had previously formed part of a division of the Administrative County from which one member was returned to the County Council out of the total membership of 140. If the Urban District of Thornton had been added to the County Borough the representation of the inhabitants would have been similarly improved.\*

We were told, as another example, that under the proposal for the extension of the boundaries of Wolverhampton made in 1921, two Urban Districts which had previously been represented by one member each on a County Council of 90 members would have had four members each on the Wolverhampton County Borough Council of 56 members, and that another Urban District and certain parishes, which were now represented by a fraction of one member on the County Council, would have been given largely increased representation of their own on the County Borough Council. In this instance more than half of the total amount of the rates levied in the proposed added areas was required to meet the expenditure of the County Council, so that in existing circumstances there was an undue disparity between the local taxation levied in the proposed added areas and the amount of representation accorded to them upon the County Council.†

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† Fox, Q. 7602-4 (III, 509), Q. 7646-50 (III, 511).

\* Harbottle, M. 69 (VI, 1318)

† Howell, M. 32 (VI, 1280), Q. 21,564-6 (VI, 1281).

1065. Thirdly, it was pointed out that if services were provided in a County District by a County Borough Council under agreement with the Local Authority of the District, the inhabitants of the District could not exercise any effective control over the administration of the service, which remained in the hands of the County Borough Council. These circumstances existed in certain areas which it had been proposed to add to Wolverhampton, in which the County Borough Council supplied water, lighting, power, means of transport, and fire protection under agreement with the Local Authority; and the Town Clerk estimated that an ordinary householder in one of the proposed added areas might pay more every year for his use of some of these services, over which in his present situation he could exercise no control, than he paid in rates to meet expenditure on all the services controlled by the Local Authority of the District and the County Council put together.‡

*Maintenance of Responsibility.*

1066. The question whether the extension of the boundaries of a County Borough, with the consequential changes in the local government of the added areas, resulted in increasing the influence of the officers of the County Borough Council at the expense of the influence of the members, was discussed with Sir David Brooks in application to the extension of Birmingham in 1911. He said that he had not observed any change in the amount of influence exerted by the officers of the City Council before and after the date of the extension. The number of officers employed was less than the number which had been employed in the old City and in the added areas taken together, though the officers of the City Council were whole-time employees, whereas some of the officers in the added areas had held part-time posts. He was not in a position to say that the will of the City Council was any less effective than it had been before 1911, although the membership of the great majority of the Council had altered since the alteration in the boundaries of the City took place.§

*Economy in Administration.*

1067. On the question of the comparative cost of the administration of local government over the area including a County Borough and County Districts before and after the Districts were added to the Borough, Mr. Collins said that any conclusions based merely upon a comparison between the amount of the rates in the County Borough and the County Districts before the alteration of boundaries, and the amount in the enlarged County Borough after it, would be misleading. The increase of rates in the enlarged County Borough which frequently followed an extension of boundaries should be described, not as being due to the greater cost of administration in the larger area, but as being due to expenditure on the new or increased services rendered

by the County Borough Council to the inhabitants of the added areas, and from that expenditure the saving in cost of administration for the whole area must be subtracted. He suggested that it was generally true that if expenses of administration alone were taken into account, they would be higher in the areas of County Districts under the jurisdiction of separate Local Authorities than in a County Borough enlarged by the inclusion of the areas of such separate Authorities, for the reason that after an extension the number of separate officers of the same type employed in the whole area was reduced, the number of offices previously maintained by the separate Authorities was also reduced, and the inhabitants of the whole area obtained the advantage of cheaper administration on a large scale by the County Borough Council acting on behalf of them all. Further, the County Borough Council after an extension were placed in a position to secure the most economical administration of particular services, such as sewerage, in the light of the advice given to them from the technical point of view, without encountering any of the difficulties which arose in securing the co-operation of separate Local Authorities for this purpose.\*

#### EFFECTS IN PARTICULAR AREAS.

1068. A number of witnesses on behalf of Town Councils gave evidence to show that, in addition to the general advantages enumerated in the preceding paragraphs under this head, the extension of particular County Boroughs had secured, if already effected, or would secure, if effected in future, special advantages by way of increased efficiency and economy in administration accruing either mainly to the inhabitants of the old Borough, or mainly to the inhabitants of areas added to the Borough, or (as was usually the case) to both sets of inhabitants alike.

Prominence was given to the observed or anticipated results of extensions from this point of view by witnesses familiar with the circumstances of local government in the County Boroughs of Birmingham, Blackpool, Exeter, Leeds, Plymouth, Reading, Southport, Swansea, and Wolverhampton. It was recognized that we were not in a position to enter upon a detailed examination of the precise measure of the advantages thus stated to us: and further, that some of these advantages, although positive in themselves, could only be brought forward in support of the continued operation of the existing law and procedure as to the extension of County Boroughs with the qualifications that:—

(a) Advantages as great might have been secured apart from the extension of the County Borough in the administration of services with respect to which the powers or duties not only of County Borough Councils, but also of other Local Authorities, have been enlarged since the date of the extension; and

\* Collins, Q. 16,358-63 (IV, 995), Q. 16,378-81 (IV, 996).

(b) Advantages as great might have been secured apart from the extension of the County Borough in the administration of services with respect to which the general policy not only of County Borough Councils, but also of other Local Authorities, has altered since the date of the extension in the direction of a more comprehensive development of the services.\*

1069. Subject to these qualifications, the importance attached by the witnesses to the special advantages cited under this head can, we think, be fairly exhibited by tables showing, first, the populations of the County Boroughs concerned (a) before, and (b) after, the extensions effected or proposed, and (c) at the Census of 1921; and, secondly, the services in relation to which special advantages were stated to have been secured or anticipated either (a) in the main for the inhabitants of the old Borough, or (b) in the main for the inhabitants of added or proposed added areas, or (c) for both sets of inhabitants alike.

For this purpose we have prepared the following tables :

(1) *The Populations Concerned.*

*Extensions Effected.*

County Borough.	Date of Extension.	Population		
		Before Extension.	After Extension.	In 1921.
Birmingham ...	1911	526,000	840,000	919,000
Blackpool ...	1917	62,000	65,000	100,000
Exeter ...	1900	39,000	47,000	—
	1913	49,000	59,000	60,000
Leeds ...	1912	447,000	454,000	—
	1919	355,000	456,000	458,000
Plymouth ...	1914	113,000	211,000	210,000
Reading ...	1911	75,000	88,000	92,000
Southport ...	1911	52,000	70,000	77,000
Swansea ...	1918	120,000	150,000	158,000

*Extensions Proposed.*

County Borough.	Date of Proposal	Population		
		At Date of Proposal.	If Provisional Order had been Confirmed.	In 1921.
Leeds ...	1920	456,000	504,000	458,000
Wolverhampton	1921	102,000	138,000	102,000

\* Lang-Coath, Q. 19,892-3 (VI, 1198), Q. 19,916-24 (VI, 1199) ; Johnson, Q. 20,150-4 (VI, 1210), Q. 20,206-9 (VI, 1212).

(2) *The Special Advantages Secured or Anticipated.*

Service Affected.	Benefits Secured from Extension of County Borough Boundaries.			Benefits Anticipated from Extension of County Borough Boundaries.
	Benefits mainly accruing to the Old Borough.	Benefits common to the Old Borough and Added Areas.	Benefits mainly accruing to the Added Areas.	
MEANS OF COMMUNICATION— Construction of Arterial Roads.	—	<i>Birmingham</i> : Brooks, M. 24 (IV, 908), Q. 14,811 (IV, 909), Q. 14,821-32 (IV, 909). <i>Blackpool</i> : Harbottle, M. 35 (VI, 1310), M. 37 (VI, 1311). <i>Exeter</i> : Parry, M. 13 (VI, 1240), Q. 20,799-801 (VI, 1241), Q. 20,804-9 (VI, 1241). <i>Swansea</i> : Lang-Coath, M. 21-3 (VI, 1197), Q. 19,915-9 (VI, 1199), M. 34 (VI, 1201).	—	—
Bridges ... ..	—	<i>Birmingham</i> : Brooks, M. 24 (IV, 908), Q. 14,811 (IV, 909), Q. 14,821-32 (IV, 909). <i>Blackpool</i> : Harbottle, M. 35 (VI, 1310), M. 37 (VI, 1311). <i>Exeter</i> : Parry, M. 13 (VI, 1240), Q. 20,799-801 (VI, 1241), Q. 20,804-9 (VI, 1241). <i>Swansea</i> : Lang-Coath, M. 21-3 (VI, 1197), Q. 19,915-9 (VI, 1199), M. 34 (VI, 1201).	<i>Reading</i> : Johnson, M. 8 (VI, 1209), Q. 20,188-90 (VI, 1212), Q. 20,283 (VI, 1215). <i>Blackpool</i> : Harbottle, M. 35 (VI, 1310). <i>Leeds</i> : Fox, M. 17 (III, 498). <i>Reading</i> : Johnson, M. 8 (VI, 1209), Q. 20,188 (VI, 1212).	—  <i>Wolverhampton</i> : Howell, Q. 21,402 (VI, 1271).
Road Improvements and Widening.	—	<i>Birmingham</i> : Brooks, M. 23-4 (IV, 908). <i>Swansea</i> : Lang-Coath, M. 22-3 (VI, 1197). <i>Birmingham</i> : Brooks, M. 35 (IV, 913), Q. 14,545-6 (IV, 900). <i>Exeter</i> : Parry, M. 13 (VI, 1240). <i>Plymouth</i> : Ellis, M. 28-9 (VI, 1254), M. 45 (VI, 1257). <i>Southport</i> : Jarratt, M. 32 (IV, 950).	<i>Leeds</i> : Fox, M. 19 (III, 498).	<i>Leeds</i> : Fox, M. 26 (2) (3) (III, 499).
Highway Maintenance ...	—	<i>Birmingham</i> : Brooks, M. 23-4 (IV, 908). <i>Swansea</i> : Lang-Coath, M. 22-3 (VI, 1197).	—	—
Tramways ... ..	—	<i>Birmingham</i> : Brooks, M. 35 (IV, 913), Q. 14,545-6 (IV, 900). <i>Exeter</i> : Parry, M. 13 (VI, 1240). <i>Plymouth</i> : Ellis, M. 28-9 (VI, 1254), M. 45 (VI, 1257). <i>Southport</i> : Jarratt, M. 32 (IV, 950).	<i>Leeds</i> : Fox, M. 19 (III, 498).	<i>Leeds</i> : Fox, M. 26 (2) (3) (III, 499).



Motor Omnibuses	...	—	Swansea : Lang-Coath, M. 24 (VI, 1197).	Leeds : Fox, M. 19 (III, 498). Reading : Johnson, M. 13 (VI, 1210).	Leeds : Fox, M. 26 (2) (III, 499). Wolverhampton : Howell, Q. 21,402 (VI, 1271).
Abolition of Tolls	...	—	Plymouth : Ellis, M. 26-7 (VI, 1254), M. 45 (VI, 1257).	—	—
POLICE	...	—	Birmingham : Brooks, M. 30 (IV, 910). Exeter : Parry, M. 22-3 (VI, 1241).	Leeds : Fox, M. 22 (III, 499). Reading : Johnson, M. 12 (VI, 1210), Q. 20,259-63 (VI, 1214). Swansea : Lang-Coath, M. 28 (VI, 1198). Swansea : Lang-Coath, M. 28 (VI, 1198). Leeds : Fox, M. 22 (III, 499). Reading : Johnson, M. 14 (VI, 1210), Q. 20,264-73 (VI, 1214). Swansea : Lang-Coath, M. 28 (VI, 1198). Reading : Johnson, M. 16 (VI, 1210).	Wolverhampton : Howell, M. 17 (VI, 1275), Q. 21,496-513 (VI, 1276).
Ambulances	...	—	—	—	—
Fire Protection	...	—	—	—	—
Inspection of Weights and Measures.	...	Exeter : Parry, M. 32 (VI, 1245).	Birmingham : Brooks, M. 44 (IV, 917).	—	—
PUBLIC HEALTH—	...	—	—	—	—
General	...	Birmingham : Brooks, Q. 14,541-2 (IV, 900), M. 29 (IV, 910).	Birmingham : Brooks, Q. 14,547-9 (IV, 900), Q. 14,558-63 (IV, 900), M. 29 (IV, 910). Plymouth : Ellis, M. 32 (VI, 1254). Reading : Johnson, M. 11 (VI, 1209), Q. 20,246-58 (VI, 1214). Southport : Jarratt, M. 33 (IV, 950). Plymouth : Ellis, M. 30-1 (VI, 1254), Q. 21,109-16 (VI, 1256).	Swansea : Lang-Coath, M. 19 (VI, 1196), Q. 19,892-3 (VI, 1198).	—
Mental Hospitals	...	—	—	Birmingham : Brooks, M. 45 (IV, 917).	—
Control of Food and Milk Supply.	...	Exeter : Parry, M. 32 (VI, 1245), Q. 20,945-51 (VI, 1246).	—	—	—

(2) *The Special Advantages Secured or Anticipated.*—Continued.

Service Affected.	Benefits Secured from Extension of County Borough Boundaries.			Benefits Anticipated from Extension of County Borough Boundaries.
	Benefits mainly accruing to the Old Borough.	Benefits common to the Old Borough and Added Areas.	Benefits mainly accruing to the Added Areas.	
PUBLIC HEALTH— <i>cont.</i> Town Planning ... ..	—	<i>Birmingham</i> : Brooks, M. 23 (IV, 908), M. 27 (IV, 909), Q. 14,816-20 (IV, 909), Q. 14,843-4 (IV, 910). <i>Leeds</i> : Fox, M. 21 (III, 499), M. 25 (III, 499). <i>Swansea</i> : Lang-Coath, M. 26 (VI, 1127).	—	<i>Leeds</i> : Fox, M. 26 (5) (III, 499). <i>Wolverhampton</i> : Howell, M. 21 (VI, 1275), Q. 21,524-5 (VI, 1277).
Housing ... ..	—	<i>Exeter</i> : Parry, M. 13 (VI, 1240), M. 38 (VI, 1247). <i>Leeds</i> : Fox, M. 21 (III, 499), M. 25 (III, 499). <i>Swansea</i> : Lang-Coath, M. 25 (VI, 1197).	—	<i>Wolverhampton</i> : Howell, M. 24 (VI, 1275).
Building Byelaws ... ..	—	<i>Birmingham</i> : Brooks, M. 23 (IV, 908). <i>Blackpool</i> : Harbottle, M. 36 (VI, 1310), M. 40 (VI, 1311). <i>Swansea</i> : Lang-Coath, Q. 19,908 (VI, 1193), M. 21 (VI, 1197), Q. 19,910-5 (VI, 1198).	—	—

Water Supply ...	—	<i>Plymouth</i> : Ellis, M. 23-5 (VI, 1254), Q. 21,082-92 (VI, 1255), M. 43 (VI, 1257), Q. 21,150-9 (VI, 1258).	<i>Leeds</i> : Fox, M. 18 (III, 498) <i>Swansea</i> : Lang-Coath, M. 7 (VI, 1182), Q. 19,815-8 (VI, 1193), M. 27 (VI, 1197), Q. 19,954-8 (VI, 1200).	—
Main Drainage ...	—	<i>Birmingham</i> : Brooks, M. 23 (IV, 908), M. 26 (IV, 909). <i>Blackpool</i> : Harbottle, M. 37 (VI, 1311). <i>Exeter</i> : Parry, M. 13 (VI, 1240). <i>Reading</i> : Johnson, M. 9 (VI, 1209), Q. 20,191-205 (VI, 1212). <i>Southport</i> : Jarratt, M. 29 (IV, 949). <i>Swansea</i> : Lang-Coath, M. 7 (VI, 1182), Q. 19,791 (VI, 1192), Q. 19,795-9 (VI, 1192).	<i>Leeds</i> : Fox, M. 15-6 (III, 498) <i>Leeds</i> : Fox, M. 15-6 (III, 498)	<i>Leeds</i> : Fox, M. 26 (4) (III, 499). <i>Wolverhampton</i> : Howell, Q. 21,402 (VI, 1271).
Refuse Disposal ...	—	—	<i>Birmingham</i> : Brooks, M. 43 (IV, 917). <i>Blackpool</i> : Harbottle, M. 35 (VI, 1310). <i>Leeds</i> : Fox, M. 16 (III, 498). <i>Swansea</i> : Lang-Coath, Q. 19,808 (VI, 1193), M. 18 (VI, 1196), Q. 19,888-91 (VI, 1198).	<i>Wolverhampton</i> : Howell, M. 15 (VI, 1274), Q. 21,494-5 (VI, 1276).
Public Baths ...	—	—	<i>Leeds</i> : Fox, M. 22 (III, 499).	<i>Wolverhampton</i> : Howell, M. 16 (VI, 1274).
Parks and Open Spaces	—	<i>Exeter</i> : Parry, M. 38 (VI, 1247). <i>Reading</i> : Johnson, M. 10 (VI, 1209), Q. 20,206-15 (VI, 1212). <i>Southport</i> : Jarratt, M. 34 (IV, 950). <i>Swansea</i> : Lang-Coath, M. 26 (VI, 1197).		

(2) *The Special Advantages Secured or Anticipated.*—Continued.

Service Affected.	Benefits Secured from Extension of County Borough Boundaries.			Benefits Anticipated from Extension of County Borough Boundaries.
	Benefits mainly accruing to the Old Borough.	Benefits common to the Old Borough and Added Areas.	Benefits mainly accruing to the Added Areas.	
EDUCATION— Higher ... ..	—	<i>Birmingham</i> : Brooks, Q. 14,550 (IV, 900), M. 36 (IV, 913), M. 38 (IV, 913), Q. 14,920-30 (IV, 916). <i>Southport</i> : Jarratt, M. 30-1 (IV, 945). <i>Birmingham</i> : Brooks, M. 36 (IV, 913), M. 38 (IV, 913), Q. 14,920-30 (IV, 916). <i>Southport</i> : Jarratt, M. 30-31 (IV, 949). <i>Birmingham</i> : Brooks, Q. 14,560 (IV, 900), M. 36 (4) (IV, 913). <i>Exceter</i> : Parry, M. 35 (VI, 1247).	<i>Exceter</i> : Parry, M. 34 (VI, 1247) <i>Leeds</i> : Fox, M. 20 (III, 498). <i>Reading</i> : Johnson, M. 7 (VI, 1208), Q. 20,138-49 (VI, 1210). <i>Swansea</i> : Lang-Coath, M. 29 (VI, 1198). <i>Exceter</i> : Parry, M. 35 (VI, 1247). <i>Leeds</i> : Fox, M. 20 (III, 498). <i>Reading</i> : Johnson, M. 7 (VI, 1208), Q. 20,150-87 (VI, 1210). <i>Swansea</i> : Lang-Coath, M. 29 (VI, 1198). <i>Reading</i> : Johnson, M. 7 (g) (VI, 1209). <i>Swansea</i> : Lang-Coath, M. 29 (VI, 1197), Q. 19,894-909 (VI, 1198). <i>Reading</i> : Johnson, M. 15 (VI, 1210), Q. 20,274-9 (VI, 1214).	—
Elementary ... ..	—	—	—	—
School Medical Service...	—	—	—	<i>Wolverhampton</i> : Howell, M. 22 (VI, 1215).
Public Libraries ... ..	—	—	—	<i>Wolverhampton</i> : Howell, M. 16 (VI, 1274).
OTHER SERVICES— Electricity Supply ... ..	—	<i>Birmingham</i> : Brooks, M. 42 (IV, 916), Q. 14,936-44 (IV, 916). <i>Exceter</i> : Parry, M. 13 (VI, 1240). <i>Southport</i> : Jarratt, M. 32 (IV, 950).	—	—

Gas Supply	...	—	—	Leeds: Fox, M. 18 (III, 498)	—
Allotments	...	—	—	—	—
Prevention of Coast Erosion.	—	—	—	—	—
<b>GENERAL ECONOMIES IN ADMINISTRATION—</b>					
Saving on Capital Cost of Schemes for Large Areas.	—	—	Exeter: Parry, M. 38 (VI, 1247). Blackpool: Harbottle, M. 32-5 (VI, 1310), Q. 22,120-1 (VI, 1312).	—	—
Position of Corporation as a Borrower.	—	—	Birmingham: Brooks, M. 34 (1) & (3) (a) (IV, 912). Swansea: Lang-Coath, M. 33 (VI, 1201), M. 35 (VI, 1201).	—	—
Assessment and Collection of Rates.	—	—	Birmingham: Brooks, M. 34 (2) & (5) (IV, 912).	—	—
Salaries of Officers and Cost of Accommodation.	—	—	Birmingham: Brooks, M. 34 (3) (b) (IV, 912). Blackpool: Harbottle, M. 40 (6) (VI, 1311). Exeter: Parry, M. 33 (VI, 1247). Plymouth: Ellis, M. 42-3 (VI, 1257), Q. 21,144-7 (VI, 1258).	—	Wolverhampton: Howell, M. 14 (VI, 1268).
Registration of Electors	—	—	Birmingham: Brooks, M. 34 (3) (b) (IV, 912).	—	—
Accessibility of Offices of Local Authority.	—	—	—	—	Wolverhampton: Howell M. 18 (VI 1275), Q 21,514-8 (VI, 1276). Leeds: Fox, M. 26 (1) (III, 498).
Definite Fixing of the City's Obligations.	—	—	—	—	—

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**SECTION 2.—SHOULD THE EXISTING LAW AND PROCEDURE GOVERNING THE EXTENSION OF THE BOUNDARIES OF COUNTY BOROUGHS BE MODIFIED?****Evidence on behalf of County Councils.****Importance of the Wishes of the Inhabitants of Proposed Added Areas.**

1070. Every proposal for the extension of the boundaries of a County Borough raises the question whether the inhabitants of the area or areas which the Town Council propose to include in the Borough do or do not wish the area in which they live to be so included. The witnesses on behalf of County Councils admitted that it was difficult to ascertain in each instance what the wishes of the inhabitants were; but they attached special importance to securing that those wishes should be formed and ascertained by fair means; and they alleged that by means of offers of differential rating made by the Council to the inhabitants of the area or areas which it was proposed to include in the Borough, undue influence was exerted under the existing law and procedure upon the inhabitants who were in process of making up their minds.

**INFLUENCE OF OFFERS OF DIFFERENTIAL RATING.**

1071. Under the existing law and procedure parts of an Administrative County which have been included in a County Borough have in a number of cases been included on special terms, embodied in the Local Act or Provisional Order Confirmation Act under which the extension is made, as to the rates of the old Borough and the added areas respectively after the extension takes effect. In the normal case the form of provision has been that the rates of an added area should continue over a fixed term of years to be less by a certain amount than the rates of the old Borough, the difference being a cash difference which is gradually diminished in amount at certain intervals within the whole period covered by the arrangement, until at the conclusion of the whole period the rates in the added area become the same in amount as the rates in the old Borough.\*

In exceptional cases, differences existing between the rates in the old Borough and the rates in the added area at the time of the alteration of area have been recognized by a provision for maintaining the rates in the added area at a higher amount than the rates in the old Borough for a specified period.†

1072. Proposals for the enactment of provisions for differential rating may be made either by the Council of the County Borough or by the Local Authority of a proposed added area at any time

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\* Ministry of Health (Gibbon), Q. 2776-88 (I, 115).

† Ministry of Health (Gibbon), Q. 2789-93 (I, 116).

before or after a proposal has been made for the extension of the boundaries of the County Borough. The parties are at liberty to come to an agreement as to differential rating at any stage of the proceedings without reference to any other authority; and we were informed that Parliament has not been accustomed to refuse to sanction terms agreed upon, or to vary terms agreed upon, as against the inhabitants of a proposed added area, although it has in certain cases improved terms offered to, and accepted by, such inhabitants, or even inserted a provision for differential rating in a Bill introduced without such provision.\*

The measure of responsibility undertaken by the Minister of Health in dealing with proposals for differential rating which come before him has already been indicated †

1073. The witnesses on behalf of County Councils proposed at the outset that a County Borough Council should be prohibited from making any offer of differential rating to the inhabitants of an area which they wished to include in the Borough. They said that such offers in practice had the result of inducing the inhabitants of a proposed added area to abstain from opposing an extension merely because they had secured for themselves that for a considerable period their rates would be lower than the rates of the inhabitants of the old Borough, or even than the rates at the moment of the area in which they lived.

They also argued that the County Borough Council must be either able or unable to offer such advantages by way of services to the inhabitants of the proposed added area as would make it desirable to alter the existing system of local government in the area.

If the Council could provide new or improved services, the promise of a differential rate meant that the ratepayers in the added area were to that extent offered certain services for nothing at the expense of the ratepayers in the old Borough.

If the Council could not provide new or improved services, there was no advantage to the proposed added area in being included in the Borough, and the offer of a differential rate must be regarded as an improper inducement to the inhabitants to acquiesce in an alteration of area which was not desirable in the interest of good government, or in plain terms, as a bribe.‡

1074. The effect of the existing law and procedure was examined in detail in application to Lancashire, where there have been twenty-six extensions of the boundaries of County Boroughs since 1889. In twelve of these cases an offer of differential rating had, in Mr. Taylor's judgment, unduly affected the decision upon the proposal to the detriment of the County Council.§ Certain

\* Dent, 8371-3 (III, 547).

† See Chapter VII, paragraph 443, page 160 above.

‡ Dent, M. 52 (III, 537), Q. 8369-71 (III, 547), Q. 8388-94 (III, 547), M. 66 (III, 549), Q. 8579-82 (III, 555).

§ Taylor, M. 21-2 (III, 609).

proposals for extension had been approved which but for the offer of differential rating would, in his opinion, not have been approved owing to the opposition of the Local Authorities of the proposed added areas.¶ Whether or not this was a fact, the objection of County Councils to the power of the County Borough Council and the Authority of a proposed added area to enter into an agreement as to differential rating at any stage of the formulation or consideration of a proposal was that a position favourable to the proposal was thereby created, and that the County Council could exert no countervailing influence upon that position. He thought that it was extremely difficult for the County Council to oppose successfully when the inhabitants of a proposed added area had agreed with the County Borough Council to refrain from opposition on the understanding that a differential rate would be offered to them.¶

He gave as an instance a proposal under which an Urban District was added to Wigan in 1904. The District Council were at first in active opposition, but subsequently withdrew at the last moment after agreeing terms of differential rating with the County Borough Council. "We do look upon that," said Mr. Taylor, "as a bad case of differential rating. We were left, to use a familiar term, in the soup, and we could not oppose further." The Lancashire County Council had had a similar experience in relation to the proposals of Southport in 1911, and in other cases, in which, had it not been for the fact that the Local Authorities of proposed added areas had agreed with the County Borough Council concerned, the County Council would, in his opinion, have opposed more strongly than they thought was possible without the assistance of the inhabitants of the County Districts.\*

1075. Similar evidence was given by Mr. Holland, who added that County Councils were at a great disadvantage in finding arguments which could weigh with the inhabitants of proposed added areas against an offer of differential rating, since they have no authority in law, even if they thought it desirable, to make a countervailing offer of a reduction in the general County Rate.†

1076. The proposal originally made on behalf of County Councils that a County Borough Council should be prohibited from making an offer of differential rating was qualified by Mr. Dent, and by the other witnesses who devoted special attention to this subject, so far as concerned cases in which the following circumstances arose. These witnesses realized that the proper authorities might in a particular instance be satisfied that it was desirable to add a given area to a County Borough. It might be the fact that the rates of the proposed added area were at the moment lower than those of the old Borough; and it might further

¶ Taylor, M. 30 (III, 610).

¶ Taylor, Q. 9779-84 (III, 611), Q. 9790-4 (III, 612).

\* Taylor, Q. 9824-8 (III, 613).

† Holland, M. 28-30 (V, 1119).



be shown that, for reasons not within the control of any of the parties, a considerable period must elapse before the inhabitants of the added area got the full benefit of new or improved services to be made available to them as the result of their inclusion in the Borough. It was agreed that if such circumstances were shown to the satisfaction of the proper authorities to be present, it was not unreasonable that the Act which authorized the extension should include a provision for differential rating for a limited period.\*

1077. An instance of a case in which a provision of this kind had been made by Parliament was mentioned in the following passage of the evidence of Mr. Taylor†:—

"9745. (*Sir Lewis Beard*): With regard to the Blackburn case in 1901, there was a differential rate, and that differential rate was to come to an end when certain sewers were provided by the Local Authority?—I believe that is true.

"9746. So that it had a definite relation to the provision of facilities?—Yes, on the face of it that was what was suggested.

"9747. (*Sir Walter Nicholas*): For what period?—Ten years.

"9748. (*Sir Lewis Beard*): I have the clause here, and the provision is this: 'The inhabitants of so much of the included part of the township of Witton as is situate to the north of Billinge End Brow (in this section referred to as "the exempted area") shall unless the Corporation shall in the meantime be called upon or it shall become necessary to provide within the exempted area an efficient system of sewerage to effectually drain the same be exempt from any contribution to the General District Rate for a period of ten years from the passing of this Act.' So that if the Corporation was able to provide it, the differential rate came to an end?—Yes.

"9749. Can you tell us in respect to any of these other cases, apart from Gorton and Levenshulme, if there was anything of the kind?—No, I am afraid I have not gone into details. I have one or two cases with regard to Liverpool, but I do not think it necessary to go into detail as to every one of them.

"9750. But do not you see that this is put forward as if this differential rating had been held out by the applicants as standing naked by itself, but if the differential rate is coupled with a condition as to further facilities, it rather alters its character, does it not?—Yes, it does, to some extent.

"9751. Therefore we ought to know in each case whether there was any condition attached in any of these cases, in order to see whether there was anything in the nature of a bribe?—Well, perhaps I ought to have found that out."

1078. Mr. Taylor accepted the view that if an essential work was necessary in the proposed added area, and the County Borough Council and the Local Authority of the area agreed on the one hand that the County Borough Council should enter into an obligation to do the work within a certain time, and on the other hand that there should be a differential rate in favour of the inhabitants of the added area pending the execution of the work, such a provision might be perfectly fair in particular cases, since it would be based upon the need of the inhabitants

\* Dent, Q. 8371-85 (III, 547), Q. 8602, (III, 555); Holland, Q. 18,396-9 (V, 1123).

† Taylor, Q. 9745-51 (III, 610).

of the added area for specific services and the ability of the County Borough Council to provide such services within a fixed period.‡

OFFERS OF DIFFERENTIAL RATING SHOULD BE FURTHER  
REGULATED.

1079. The acceptance by witnesses on behalf of County Councils of the view that in certain cases a differential rate ought to be fixed in favour of the inhabitants of an area added to a County Borough was subject to a further condition. They objected to the present power of the parties to offer and accept a differential rate at any stage in the proceedings on a proposal for the extension of a County Borough, and suggested that the right to introduce the question of a differential rate into the proceedings should be vested solely in the authorities who had to determine whether or not the extension of the County Borough was desirable in the interests of all the parties concerned.§ The purpose of this suggestion was to prevent the use of an offer of a differential rate as a means of exerting influence upon the attitude of the inhabitants of a proposed added area towards the question of being included in a County Borough, without making it impossible for the statute authorizing the extension of the County Borough to include provision for a differential rate which had been calculated by reference to a specific need for services on the part of the inhabitants of the proposed added area, and a specific undertaking to supply that need within a given period on the part of the County Borough Council.\*

1080. Mr. Dent summed up the view of County Councils by saying that a differential rate, in the cases in which it might be regarded as a proper provision, should be treated as a detail, and as irrelevant to the essential question which the proper authorities had to decide, namely, whether it was desirable that there should be an extension of the boundaries of the County Borough or not. It should be left to these authorities, on the facts before them, to make special provision for a differential rate if they thought fit.†

Mr. Dent agreed that the suggestion of County Councils raised the difficulty that, if it were adopted, a County Borough Council in supporting their case before the proper authorities would be precluded from entering into the question of a differential rate, and to that extent would be handicapped by having to put an incomplete case. In circumstances in which County Councils would themselves recognize that a differential rate might properly be agreed upon, the result would be that the authorities could not view the proposal as a whole, because,

‡ Taylor, Q. 9786 (III, 612), Q. 9859-63 (III, 615).

§ Dent, Q. 8373-5 (III, 547), Q. 8388-9 (III, 547); Keen, Q. 15,372 (IV, 937); Joy, Q. 17,719-20 (V, 1093); Holland, Q. 18,363-4 (V, 1122).

\* Dent, Q. 8390-2 (III, 547), Q. 8582-96 (III, 555).

† Dent, Q. 8602 (III, 555).

in the form in which it would be proper to accept it, the proposal would include as one of its elements an arrangement under which a differential rate would be offered by the County Borough Council and accepted by the Local Authority of the proposed added area.‡

1081. At the same time, County Councils attached so much importance to regulating the manner in which offers of a differential rate could be made, that they urged that this difficulty should not be allowed to stand in the way of allowing the wishes of the inhabitants of proposed added areas to be properly determined. It was suggested by Mr. Keen that there was no objection to the inclusion of a statement in a representation made by the County Borough Council under section 54 of the Act of 1888 to the effect that the Council would be prepared to arrange a differential rate in a suitable case, or if a case were made out§; and by Mr. Holland that a differential rate should be regarded as a condition to be imposed upon the County Borough Council, before their proposal was granted, for the purpose of remedying what might otherwise be considered an injustice to the ratepayers of the added area in whose favour the differential rate was fixed.\*

1082. Mr. Keen, considering the question purely from the financial standpoint, suggested that if a proposal for extension was on the one hand accompanied by an offer of a differential rate to the ratepayers of a County District, and on the other hand was likely to involve a payment by the County Borough Council to the Council of the Administrative County from which the District was severed, the proposal must be considered as being financially injurious both to the ratepayers in the proposed added area, who had to be given a differential rate as a set-off against that injury, and to the ratepayers left in the Administrative County after the severance, who had to be compensated for the increased burden laid upon them as a result of the severance. A proposal which exhibited these two characteristics should not, in his view, be approved, in the face of its financial demerits, unless there were very strong administrative grounds which could be shown to exist in its favour.†

#### STATEMENTS OF EXPENDITURE ON PROPOSALS BY TOWN COUNCILS SHOULD BE PUBLISHED.

1083. Mr. Taylor suggested that in order to reassure the parties concerned with a proposal for the extension of the boundaries of a County Borough that the wishes of the inhabitants were not being influenced by any improper means, it would be desirable

‡ Dent, Q. 8597-601 (III, 555).

§ Keen, Q. 15,362 (IV, 937).

\* Holland, Q. 18,400-5 (V, 1123).

† Keen, Q. 15,360-1 (IV, 937), Q. 15,373-5 (IV, 937).

to make it obligatory upon the County Borough Council responsible for the proposal to lay before the proper authorities, and to make public, a fully audited statement of all expenses already incurred in relation to the proposal, and a further statement of any other expenses contemplated, especially for the purpose of providing compensation to officers of the Local Authorities in proposed added areas injuriously affected by the proposal. He said that he did not suggest that such officers were improperly influenced by arrangements made for compensating them, but he thought that there was a general impression in the public mind that arrangements were made outside the terms of the Bill which came before Parliament, and that it was desirable in the interests of all parties that the facts in regard to this and other financial transactions involved in the proposal should be made public at a stage at which such facts could exert their proper influence upon the wishes of the inhabitants of the proposed added areas.†

**The Wishes of the Inhabitants, if Opposed to Extension, should Normally be Conclusive.**

1084. The witnesses on behalf of County Councils submitted that in addition to the principle that the desirability of a proposal under section 54 of the Act of 1888 could only be determined with due regard to the interests of all parties concerned||, it should be accepted as a further principle that if the wishes of the inhabitants of a proposed added area were opposed to the inclusion of their area in a County Borough, that opposition should, "subject to an overwhelming case of public interest," be a conclusive ground for the rejection of the County Borough Council's proposal to include that area.\*

1085. Mr. Dent thought that the practice of Parliament had been in favour of maintaining such a principle, and in support of this view he quoted two pronouncements by Committees of Parliament who had considered proposals for the extension of County Boroughs.

The first of these proposals was that of Liverpool in 1890, and in that case the Committee of the House of Commons had said in their Report that they did not feel themselves justified in transferring self-governing populations to a new Authority against their will, and that they therefore held that the portion of the preamble to the Bill which related to the extension of boundaries was not proved.\*

The second proposal was that of Birkenhead in 1920, and in that case the Joint Committee of the two Houses of Parliament

† Taylor, Q. 9875-9900 (III, 616).

|| Dent, M. 63 (III, 549), Q. 8515-22 (III, 552).

\* Dent, M. 64 (III, 549).

on the Bill, presided over by Lord Kintore, said in their Report that they desired to add to the statement made of their decision on the Bill before them an expression of their opinion that (subject to special considerations of public advantage) no Provisional Order for Borough extensions should be brought before Parliament for confirmation which has not previously received the substantial support of the ratepayers in the areas proposed to be incorporated.‡

1086. Mr. Dent said that he was content to adopt the words of Lord Kintore's Committee of 1920, that proposals which were not substantially supported by ratepayers in proposed added areas should only be submitted to Parliament if there were "special considerations of public advantage" in their favour, in substitution for the words "subject to an overwhelming case of public interest" which stood in his memorandum of evidence.§ He agreed that it was not the usual practice of Committees of Parliament to give reasons for their decisions, and that cases could no doubt be found in which Bills authorizing the extension of County Boroughs had been passed in face of opposition on the part of the inhabitants of proposed added areas, and the Committee who had found that the preamble of the Bill was proved had made no comment on the question of the wishes of the inhabitants.|| At the same time, he thought that these facts made the few pronouncements by Committees of Parliament which might be regarded as statements of principle of general application all the more important; and he suggested that the pronouncement in the Liverpool case, as well as that in the Birkenhead case, was, if it were properly construed, intended to lay down a principle of general application.¶

1087. County Councils wished to secure that an objection entertained by the majority of the inhabitants of a proposed added area should *prima facie* be regarded as conclusive against the inclusion of the area in a County Borough, and should prevail unless special considerations of public advantage, which the proper authorities considered more weighty than the objection of the inhabitants, should be proved in favour of the proposal.\*

### **Evidence on behalf of Town Councils.**

#### **Further Regulation of Offers of Differential Rating is Unnecessary.**

1088. The witnesses on behalf of Town Councils submitted that no general objection could be maintained to the inclusion in the Acts authorizing the extension of the boundaries of County

‡ Dent, M. 64 (III, 549).

§ Dent, Q. 8538-41 (III, 553).

|| Dent, Q. 8542-9 (III, 553).

¶ Dent, Q. 8563-74 (III, 554).

\* Holland, M. 33 (V, 1120), Q. 18,420-6 (V, 1124).

Boroughs of provisions for differential rating between the inhabitants of the existing Borough and the inhabitants of the whole or part of the added area.

In their view, the normal position was that the differential rate allowed during the statutory period to inhabitants of an added area was a proper consideration for the absence in the added area of local government services which the County Borough Council could not be expected to organize in their full efficiency in any less time than the period for which a differential rate was allowed.†

1089. Further, they said that an added area to which differential rating was applied was usually an area in which urban development had begun, and must be expected to increase, owing to the proximity of the area to the County Borough, and that it was in their view desirable to assist the development of the added area under the jurisdiction of the County Borough Council by giving the inhabitants the advantage of a differential rate, while enabling the Council to prevent development from proceeding on lines which would be prejudicial to the general interests of the inhabitants of the extended County Borough as a whole.‡

*Leeds Extension, 1912.*

1090. The late Sir Robert Fox took as an example the position in an area added to the County Borough of Leeds in 1912, and said that in this area at the time of the extension there was an inadequate water supply, no sewerage, no supply of electric light, and a very defective supply of gas. In circumstances such as these the proper method by which to consider whether a differential rate was justified was to look at the rates in the old Borough and in the added area side by side with the services provided in the old Borough and in the added area respectively. If the differential rate were such that it could be shown to be properly related to the progressive organization of services in the added area, and to be so limited in duration as to provide for the payment by the inhabitants of the added area of a full rate when that organization was completed, the arrangement was a fair one, and could not be regarded as having an undue influence upon the wishes of the inhabitants on the question whether their area should be included within the boundaries of the County Borough.\*

Other services, which had not been in question in the added area taken as an example, might have to be provided in other circumstances by a County Borough Council for the inhabitants of an added area, such as public libraries, baths, recreation grounds, road improvements, and transport services.§

† Fox, M. 53 (III, 512), Q. 7835-8 (III, 522); Lang-Coath, Q. 19,591-2 (VI, 1187); Parry, Q. 20,930 (VI, 1246).

‡ Fox, M. 53 (III, 512), Q. 7841-5 (III, 527), Q. 7858-64 (III, 523).

\* Fox, Q. 7838-40 (III, 492), Q. 7846-57 (III, 492).

§ Fox, Q. 7865-8 (III, 523)

The question of the amount of the differential rate, and the period to which it should apply, was accordingly one which could only be satisfactorily considered in the light of the local conditions as to the need of the inhabitants of a proposed added area for particular services, and the ability of the County Borough Council to provide them.†

*Swansea Extension, 1918.*

1091. Mr. Lang-Coath, Town Clerk of Swansea, explained as follows the grounds upon which provision had been made for differential rating in various areas added to the County Borough of Swansea in 1918§ :

“ What happened was this. There were certain old and obsolete works the cost of which had been incurred long before the added areas were being brought in, and in respect of which works they, of course, could not possibly obtain any benefit. They had had no voice in the construction of those works, and it was thought, therefore, that they were entitled to some consideration in regard to the debts which the Corporation were then paying off for those works. It was also thought that possibly they would not immediately obtain the benefit of public services which had been established by the Corporation; and in order to meet this position on an equitable basis, the Corporation agreed to the suggestion made by the added areas that Swansea should give them a differential rate. There was an agreement; they withdrew their opposition and we gave them the differential rate for five years, which as you say, has now elapsed.”

Mr. Lang-Coath added that he was not in a position to describe the process of calculation by which the precise differential rates considered equitable for application to the several added areas had been arrived at, but their effect was that the existing rates in each such area were to be maintained for five years from 1918 at the amount at which they stood in 1918.||

1092. In relation to this case, Mr. Lang-Coath explained the view of Town Councils on the question whether it should be open to a County Borough Council and the Local Authority of a proposed added area to enter into an arrangement, at any stage in the discussion of the County Borough Council's proposal, for the application of a differential rate to an added area. He agreed that the effect of such an arrangement was to make it impossible for the Council of the Administrative County from which the added area would be severed, if the proposal were approved, to oppose the arrangement in Parliament, because it would be held that the matter was one which concerned the County Borough Council and the Local Authority alone, and that the County Council were not entitled to be heard upon the point.\*

† Fox, Q. 7869-89 (III, 523).

§ Lang-Coath, Q. 19,514 (VI, 1184).

|| Lang-Coath, Q. 19,521-35 (VI, 1184), Q. 19,542-7 (VI, 1185), Q. 19,556-71 (VI, 1185).

\* Lang-Coath, Q. 19,548-55 (VI, 1185), Q. 19,572-90 (VI, 1186); cf. Johnson, Q. 20,130-1 (VI, 1208).

He further agreed that it had been the practice of Parliament in the past to treat an arrangement made between a County Borough Council and the Local Authority of a proposed added area for differential rating as a decision behind which a Parliamentary Committee would not go, and that the consent of the Local Authority of the proposed added area would rule out any opposition in Parliament by ratepayers, as such, to the arrangement.†

*Reading Extension, 1911.*

1093. In another instance, that of the County Borough Council of Reading and certain areas which were added to the County Borough in 1911, we were informed that an arrangement for differential rating was arrived at between the County Borough Council and the Local Authorities of the proposed added areas during the course of the Local Inquiry into the proposal, but the opposition of one of the Local Authorities concerned was continued in Parliament, although it was not pressed to the end. The County Councils of Berkshire and Oxfordshire, both of whom were concerned with the proposal, would not have been entitled to make objection in Parliament to the arrangement for differential rating, but they were in fact satisfied with the proposal as a whole before the Bill came into Parliament, and treated the proposal as in substance unopposed.‡

*Exeter Extension, 1913.*

1094. In another instance, that of the extension of the City of Exeter in 1913, we were informed that the City Council invited the Local Authority of the proposed added area to discuss the proposal as a whole, but on meeting a refusal from the Local Authority they themselves put forward an arrangement for differential rating, which they considered would be fair to the added area on the ground that the inhabitants would not immediately obtain the full benefit of services provided by the City Council, and also on the ground that time should be given for the adjustment of provisions for differential rating as between different parts of the added area which were in force before the extension.§

The City Council's proposals as to differential rating were submitted to the Minister, and were accepted for inclusion in the Provisional Order which provided for the extension. The Bill to confirm the Order was not opposed by the Local Authority

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† Lang-Coath, Q. 19,599-606 (VI, 1187), Q. 19,609-19 (VI, 1187).

‡ Johnson, M. 6 (VI, 1207), Q. 20,125-36 (VI, 1208).

§ Parry, Q. 20,909 (VI, 1245), Q. 20,916-30 (VI, 1245).



of the proposed added area on any point, nor did the City Council receive from the Local Authority any representation to the effect that the proposed differential rating was unfair.\*

*Blackpool Extension, 1917.*

1095. It was also pointed out on behalf of Town Councils that in certain cases the ratepayers of an added area had been required to pay a higher rate than the rate paid by the ratepayers in the old Borough. This position had arisen between the County Borough Council of Blackpool and the Local Authorities of adjoining County Districts who had applied for the inclusion of the Districts within the boundaries of the Borough. Under the Act by which the extension of the County Borough in 1917 was effected, the inhabitants of part of the added area were required for a period of 12 years from the appointed day, the 1st April, 1918, to pay each year a district rate of 1s. in the £ more than the district rate payable in the remainder of the Borough, subject to a maximum total of 6s. 6d. in the £ for all rates. The provision for a differential rate in favour of the ratepayers of the old Borough was made because the rates in the part of the added area affected had for many years been higher than the rates in the old Borough.† A similar proposal (subject to the omission of provision for a maximum total rate) had been accepted by the Local Authority of another County District which it had been proposed to add to the Borough at various times between 1917 and 1920, and this proposal was similarly based upon a detailed calculation of the estimated cost of administering the added area after the extension took effect.‡

The object of the County Borough Council had been to avoid a situation in which either the ratepayers of an added area or the ratepayers of the old Borough would be in the position of gaining an advantage at the expense of other inhabitants of the Borough as a whole, and it was suggested that in settling the terms on this principle it was proper to have regard to the existing rates both in the old Borough and in the proposed added areas, whether the result was to the benefit of the inhabitants of the old Borough or of the inhabitants of the County District affected.§

**Adverse Wishes of the Inhabitants should Not be Conclusive.**

1096. The witnesses on behalf of Town Councils submitted that the policy of Parliament under which the opposition of the inhabitants of an area proposed to be included within the

\* Parry, Q. 20,905-8 (VI, 1245), Q. 20,910-13 (VI, 1245).

† Harbottle, M. 36 (VI, 1310).

‡ Harbottle, M. 44 (VI, 1312).

§ Harbottle, M. 65 (VI, 1317), Q. 22,171-7 (VI, 1318).

boundaries of a County Borough had never been allowed to be conclusive against the proposal was a policy which ought to be maintained.

1097. Sir David Brooks supported this general view by setting out a number of circumstances which in his opinion must be taken to qualify the importance of the wishes of the inhabitants as expressed in regard to such proposals. These circumstances were that :

(a) The initiative in proposing an alteration of boundaries must always be taken by the County Borough Council, and any proposal for change always excited as such some measure of unreasonable opposition ;

(b) The Local Authority of a proposed added area adjacent to a County Borough, in which urban development had already taken place, would ordinarily have had some difference of opinion with the County Borough Council on matters arising out of the process of development, and would therefore tend to support any opposition to the inclusion of the area in the Borough ;

(c) Whenever it was proposed to include the whole of a County District in a County Borough, there was a natural desire on the part of the members of the local Council to keep the District and their own body in being, for reasons which were not relevant to the merits of the proposal ;

(d) The local interest which was aroused by these proposals usually resulted in the circulation of unfounded statements by the members of the Local Authorities of County Districts affected, or other persons, as to the demerits of the proposal. The result was that the Local Authorities and the inhabitants committed themselves at an early stage of the proceedings to opposing the County Borough Council, and found it difficult to recede from this position even if they were subsequently convinced, as they frequently were, that the advantages of the proposal to the District outweighed the disadvantages which had been put to them when they were hearing one side of the case only ;

(e) It must not be assumed that the inhabitants of a proposed added area were ordinarily in possession of sufficient knowledge to enable them to take a reasoned view of the merits of a proposal to include their area in a County Borough. They did not study the vital statistics which showed the effects of improved sanitary administration, or the arguments in favour of unified control of local government services within the area covering the existing Borough and the County Districts affected, which, on a comprehensive view, would properly be regarded as together forming a single community ; and

(f) It was the fact that the rates in County Districts proposed to be added to a County Borough were normally, though not

always, lower than the rates in the existing Borough. So far as this position prevailed, it was not to be expected that the ratepayers of a County District would remind themselves of any advantages which they derived from the County Borough, without being asked to pay for them, when they were in process of making up their minds whether they should accept a proposal which would mean that their existing rates would be increased. §

1098. On all these grounds, Sir David Brooks suggested that, although the wishes of the inhabitants expressed under such conditions were entitled to full consideration by the authorities who had to determine whether a proposal for the extension of the boundaries of a County Borough was desirable, the manner in which the wishes of the inhabitants had been formed, and the reasons on which they were founded, must in every case be examined and weighed against the advantages which the County Borough Council were prepared to argue would result from the adoption of the proposal to the whole community affected by it.\*

He added that in the normal case it was not possible to induce a satisfactory proportion of the inhabitants of a proposed added area to express their wishes about the issue at all, and that polls on such a question were as a rule much smaller than the polls at Parliamentary or municipal elections. For what such expressions of opinion were worth, he would be prepared to apply all his qualifications to a poll which resulted in favour of a proposal to include an area in a County Borough as well as to polls having the contrary result.†

1099. Mr. Howell, Town Clerk of Wolverhampton, inclined to the view that the expressed wishes of the inhabitants in opposition to a proposal should be taken into account, but should be regarded as one of the less important elements contributing to a decision on the question whether a proposal was desirable; first, because it was only the existing ratepayers or inhabitants whose opinion could be ascertained, while the decision might permanently affect the local government of an important area; and, secondly, because in some cases, as with the proposal of the Wolverhampton Town Council in 1921, the Local Authorities affected were not only subject to the influences summarized by Sir David Brooks, but also went so far as to combine with the County Council concerned in deciding to oppose, and declining to discuss, the proposal of the Town Council.‡

1100. Mr. Ellis, who based his view mainly upon his experience as Town Clerk of Plymouth at the time of the proceedings

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§ Brooks, M. 11 (IV, 882).

\* Brooks, M. 12 (IV, 882).

† Brooks, Q. 14,282-91 (IV, 884).

‡ Howell, M. 30 (VI, 1279).

leading up to the amalgamation of the Three Towns (Plymouth, Devonport, and Stonehouse) in 1914, was of opinion that greater importance should be attached to the wishes of the inhabitants. He said that he thought that such wishes should have the greatest possible weight, and should not be over-ridden except on the ground of some public advantage, or combination of public advantages, which would result from giving effect to the proposal. The public advantages which he had in mind were, first, any benefit to national security, a matter which had been in question in relation to the amalgamation of the Three Towns; secondly, the attainment of economy in local expenditure, which ought to be considered as a matter of degree, but should be conclusive against the wishes of the inhabitants if it were shown to the satisfaction of the proper authorities that a large measure of economy would be secured if the proposal were carried out; and, thirdly, the removal of defects in local government services which were of inconvenience to the public, such as defects resulting from the existence of tolls on public highways, the discontinuity of separate tramway systems, or the maintenance of separate systems of water supply.\*

1101. Mr. Harbottle, Town Clerk of Blackpool, where the County Borough Council had had the experience of receiving applications from the Local Authorities of County Districts for the inclusion of the Districts in the Borough, submitted that if, as had there occurred, the wishes of the inhabitants were based upon a clear understanding of the benefits to be derived from coming under the jurisdiction of the County Borough Council, those wishes should be given weight as one of the most important considerations relevant to a proposal by the County Borough Council to include the County District in the Borough. At the same time, he thought that the question of the wishes of the inhabitants could not properly be treated, as witnesses on behalf of County Councils suggested, as being in any way pertinent to the question whether other arguments which the County Borough Council desired to bring forward should be treated as relevant or irrelevant to the issue. In any event, the primary consideration which the authorities competent to determine whether a proposal was desirable ought to take into account was whether the proposal would increase the efficiency of local government over the whole area affected. If this question were decided in the affirmative, the wishes of the inhabitants, supposing them to be against the proposal, might be taken into account as a secondary consideration; but the decision on the question of good government must be taken to show that, whatever those wishes were, the inhabitants of added areas would in fact derive benefit from the carrying out of the proposal of the County Borough Council.†

\* Ellis, Q. 21,168-70 (VI, 1259), Q. 21,192-204 (VI, 1260).

† Harbottle, M. 63 (VI, 1316), M. 66 (VI, 1317), Q. 22,160-8 (VI, 1317).

## Evidence on behalf of County Councils.

### Arguments in relation to Proposals should be Further Regulated.

#### ARGUMENTS WHICH SHOULD BE EXCLUDED.

##### *As to Town Planning.*

1102. It was suggested on behalf of County Councils that whether or not the inhabitants of a County District were in favour of a proposal for the inclusion of their area in a County Borough, the County Borough Council should in no case be entitled to submit the fact that they administered a town planning scheme which extended over the proposed added area, or any part of it, as a justification or a partial justification for the proposal†. In support of this suggestion reference was made to the following passage in the evidence submitted to us on behalf of the Ministry of Health§ :—

“ 1098. (*Mr. Turton*) : Speaking quite generally, I take it you agree with the view of the majority of the Royal Commission on London Government with regard to having very large areas for the purpose of consultation in regard to town planning?—Yes. In London we have already obtained a number of Committees and are trying to get more in sections around London.

“ 1099. And therefore it means that to a certain extent this question of town planning is outside the question of area for County or County Borough government?—Yes. It is one of my constant endeavours to keep town planning quite distinct from the question of Borough extensions.

“ 1100. For the purpose of this inquiry, quâ extension of County Borough or County areas, it is a matter which we should be wise to leave outside our discussion?—You must not ask me to give you an opinion upon that.

“ 1101. But it is a larger question?—Personally, I do not want questions of town planning complicated by any question of Borough extensions.”

#### ARGUMENTS WHICH SHOULD BE EXCLUDED SUBJECT TO CONDITIONS

1103. Mr. Taylor, in his memorandum of evidence, submitted that unless a substantial majority of the inhabitants of an area sought to be included in a County Borough were in favour of the proposal, the proposal ought not to be entertained\* ; but in examination he developed the alternative view that unless a substantial majority of the inhabitants of a proposed added area were in favour of the proposal, and possibly in other cases also, the existing law and procedure should be so modified that the County Borough Council would be precluded from submitting to the authorities before whom the proposal came for consideration certain matters which now commonly form the subject of discussion in relation to such proposals.†

† Dent, **M. 68** (III, 549), Q. 8641–2 (III, 557).

§ Ministry of Health (*Gibbon*), Q. 1098–1101 (I, 44).

\* Taylor, **M. 30** (III, 610).

† Taylor, Q. 10,050–2 (III, 623), Q. 10,128–9 (III, 626).

*(a) As to Supply of Water, Gas, Electricity, or Transport Services.*

1104. These matters fell into three categories, the first being the fact that the County Borough Council supplied water, gas, electricity, or transport services in the proposed added area.‡

The grounds upon which Mr. Taylor thought that these matters should be eliminated from consideration were, first, (i) that arrangements for supply by the County Borough Council to areas outside the Borough boundaries were questions of bargain and sale between the two Authorities, and that any such services rendered by the County Borough Council to other areas were not rendered in the discharge of the normal functions of a Local Authority.§

Secondly, (ii) Mr. Taylor submitted that it was a matter of chance or bargain whether a water supply in a County District was derived from a neighbouring County Borough. If it were, it should not be open to the County Borough Council to use this fact in support of a proposal for the inclusion of the District so supplied in the Borough. Had it been the case that the area of the District lay near the pipelines connecting a distant source of supply with a distant County Borough, and the Local Authority had exercised a right of connexion with the pipelines, no argument for the inclusion of the District in a County Borough on the ground of the source of its water supply could have arisen.\*

Thirdly, (iii) as regards both water supply and gas supply, Mr. Taylor pointed out that County Borough Councils were often the successors of private undertakings which had embraced in their statutory area of supply not only the County Borough in which the head office of the company was situated, but also the whole or part of other local government areas. If the County Borough Council acquired the undertaking they acquired with it all its obligations, including that of providing a supply outside the boundaries of the County Borough, and the Council should not be allowed to rely upon this accidental circumstance as an argument for including within the municipal boundaries areas which were thus supplied.†

Fourthly, (iv) as regards transport services, Mr. Taylor submitted that the development of tramways and motor omnibus services which served any district in which the population increased or industry developed, without reference to local government boundaries, made it improper for a County Borough Council whose tramways or omnibuses ran into the area of another Local

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‡ Taylor, Q. 9987 (III, 620).

§ Taylor, Q. 9990 (III, 620). Q. 9997 (III, 621), Q. 10,001 (III, 621), Q. 10,013 (III, 621).

\* Taylor, Q. 10,008-9 (III, 621).

† Taylor, Q. 10,003-7, (III, 621), Q. 10,009-12 (III, 621).

Authority to use this fact as an argument in favour of a proposal for including the area thus served in the County Borough serving it.†

1105. As regards these matters generally, Mr. Taylor did not accept the suggestion that his view should be qualified by the fact that there were cases in which a County Borough Council supplying an outside area were required to find a subsidy from their ratepayers for one or other undertaking, or at least to charge the capital on the rates; or by the fact that County Borough Councils were prohibited by statute from charging more for gas to consumers in outside areas than was charged to the consumers in the County Borough.‡

He considered all these matters in themselves so far irrelevant to an inquiry into the question of the proper form of local government for a given area that, assuming the procedure by application for a Provisional Order under section 54 of the Act of 1888 to be retained, he proposed to require them to be excluded from the representation made by the County Borough Council to the Minister of Health.§

*(b) As to Provision of Sewerage and other Health Services.*

1106. Mr. Taylor's suggestion in relation to these services, which fell into the second category of the matters dealt with by him, was that they should be eliminated from consideration not absolutely, as should be the services under the foregoing head, but conditionally; that is to say, he proposed that questions relating to the provision of sewerage or other health services in a proposed added area should be eliminated from consideration by the authorities having jurisdiction to determine whether the extension of the boundaries of a County Borough was desirable, unless

(i) The state of affairs in the proposed added area was in any way a menace to the inhabitants of the County Borough, and

(ii) Notice had been given to the County Council and to the Local Authority of the proposed added area before the administration of sewage disposal or other health services in the proposed added area was put forward as a reason for including it in the County Borough.\*

1107. As regards these services, Mr. Taylor explained that he drew a distinction between gross defects in administration which

† Taylor, Q. 10,014-5 (III, 621).

‡ Taylor, Q. 10,070-5 (III, 624).

§ Taylor, Q. 10,020-3 (III, 622). But compare Taylor, Q. 10,130-2 (III, 626).

\* Taylor, Q. 9987 (III, 620), Q. 10,031-5 (III, 622).

made the proposed added area an insanitary district, and minor defects in administration which could be discovered in the area of every Local Authority.

If the area were insanitary in a grave sense, he suggested that the County Borough Council should have a right and a duty to complain to the responsible Local Authorities only if the inhabitants of the County Borough were themselves suffering from the nuisance existing in the area. In such a case their proper course was to call the attention of the County Council, or preferably the Minister of Health, to the state of affairs in the area, and they should be required to complain, and to establish the justice of their complaint to the satisfaction of the proper authorities, before they were allowed to urge the insanitary condition of the proposed added area as a reason for including it in the County Borough.†

If the state of the proposed added area was in fact insanitary, but could not reasonably be said by the County Borough Council to be detrimental to the inhabitants of the County Borough, Mr. Taylor proposed that it should not be open to the County Borough Council to make a complaint in the interest of the inhabitants of the outside area themselves. He said that the inhabitants of the outside area had the opportunity of putting their views before the proper authorities when they liked, and that if their views were that they preferred to keep their area in its insanitary condition, he would leave it to the Minister of Health to secure what effect he could by taking proceedings for a mandamus to compel the Local Authority to do their duty.‡

1108. As regards provision of sewerage and other health services, Mr. Taylor drew a further distinction between the cases in which the inhabitants of a proposed added area were not in favour of its inclusion in a County Borough, and those cases in which they were. He thought it proper to exclude the consideration of these matters by the authorities having jurisdiction to deal with the proposal for the extension of the County Borough only if the majority of the inhabitants of the proposed added area did not assent to the proposal, since the basis of his suggestion for excluding such matters from consideration in cases in which the wishes of the inhabitants were to remain under their existing system of government was that proper notice and proper opportunity should be given to the existing Local Authorities to remedy any greater or lesser defects in administration before the alternative of including County Districts in a County Borough on sanitary grounds was regarded as proper for discussion.\*

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† Taylor, Q. 10,076-86 (III, 624).

‡ Taylor, Q. 10,087-99 (III, 624).

\* Taylor, Q. 10,127-9 (III, 626).



*(c) As to Education.*

1109. The service which formed the third category of the matters which Mr. Taylor suggested as proper to be conditionally excluded from discussion in relation to a proposal for the extension of the boundaries of a County Borough was the administration of education. Under this head his suggestion was that the authorities having jurisdiction to determine whether such a proposal was desirable should not be entitled to hear arguments for the inclusion of a County District in a County Borough based on alleged defects in the administration of education unless the County Borough Council could produce evidence that in the opinion of the Board of Education the system of education organized by the existing Local Education Authorities in the proposed added area was not efficient. His object in making this suggestion was to exclude from consideration arguments of the type which he thought that County Borough Councils were apt to bring forward as to the possible advantage to particular pupils of attending schools in the County Borough rather than schools in the proposed added area, or arguments in favour of the inclusion of a proposed added area in the County Borough on the ground that children who lived in the Administrative County were in the habit of going into a secondary school situated in the County Borough.†

ARGUMENTS WHICH, IF ADMITTED, SHOULD HAVE LESS WEIGHT.

*General.*

1110. The witnesses on behalf of County Councils submitted that County Borough Councils had been in the habit of putting forward a number of arguments, to which, in the view of County Councils, undue weight had been attached in the past. Mr. Dent accordingly made a detailed criticism of the merits of such arguments, and said that, while each of the arguments was proper to be taken into account by the authorities who had to determine whether a proposal was desirable, the object of his criticism was to suggest countervailing considerations which, in the County Councils' view, diminished the weight that in a good many cases ought to be attached to any or all such arguments. He agreed that the extent to which any or all of the arguments should prevail in relation to particular proposals could only be determined by bringing forward and examining each relevant argument in relation to the facts of each proposal; and that in every case the decision must be based on a compromise arrived at as the result of balancing the harm which would result to one of the parties against the good which would be done to another. If each of the reasons given by the County Borough Council for their proposal was fairly established as *bona fide* and not unreasonably put

† Taylor, Q. 9987 (III, 620), Q. 10,036-44 (III, 622).

forward, it would rest with the County Council concerned to show that the effect on the Administrative County of granting the proposal would be such that, in spite of the reasons urged by the County Borough Council, the proposal was not desirable.\*

1111. Evidence to the same effect was given by Sir William Vibart Dixon. He said that the general purport of his argument was not that any of the considerations with which he dealt separately should be excluded from the purview of the authorities who had to determine whether a proposal for the extension of the boundaries of a County Borough was desirable. He accepted the view that, while the facts under any one of the heads with which he dealt would not, if proved in a particular case, in themselves show that the proposal was desirable, they were germane to the issue, and in each case in which they were relevant must be open to the parties for use in argument for or against the proposal. His object was to show as a general principle that facts of these various types, if viewed in their proper light, should be given very little weight as contributing to the arguments in favour of a proposal for extension, and thereby to prove that the process of taking facts under each head, each of them insufficient in themselves to prove the case, as together showing a substantial amount of community of interest between a County Borough and proposed added areas, was a fallacious process.†

*As to Following the Inhabitants.*

1112. Under this head, Mr. Dent dealt with the argument of County Borough Councils which he described as the contention that the County Borough Council should be allowed to follow such of "their inhabitants" as had decided to live in the neighbouring County areas. He submitted that this argument was unsound, because, if taken to its logical conclusion, it would involve the extension of the boundaries of County Boroughs far beyond any practicable limit, and would be seen to be absurd if it were thoroughly applied. In his view, alterations of boundaries, however often carried out, could not deal effectively with the ebb and flow of population between the areas of County Boroughs and the areas of Administrative Counties.‡

In discussion of this point, Mr. Dent said that County Councils had in mind a variety of circumstances, such as (a) those in which people who worked in a County Borough preferred to live outside in what were sometimes called dormitory areas, and (b) those in which the richer citizens went out of the County Borough to reside in a County District at more or less distance. In relation to specific proposals, the motives of the section of the population

\* Dent, M. 40 (III, 536), Q. 8143-5 (III, 538), M. 42 (III, 536), Q. 8184-8 (III, 539).

† Vibart Dixon, Q. 9239-46 (III, 589).

‡ Dent, M. 43 (III, 536).

who had moved, the distance to which they had gone, and the character of the relations between the County Borough and the area in which they had settled, must all be taken into account.\*

*As to the Inclusion of Adjacent Urban Areas.*

1113. Mr. Dent said that County Borough Councils usually argued that they should be allowed to absorb independent urban areas which were gradually extending in the direction of County Boroughs. He submitted that it would be entirely destructive of the first principles of local government to allow one area to absorb another, which had grown up independently, merely by reason of its proximity or the practical continuity of streets and buildings.† In explanation of this view, he said that, while he did not suggest that the mere proximity of an area to the County Borough had ever been urged by the County Borough Council as a sufficient argument in itself for including the area in the County Borough, he thought that proximity had been the prime reason for the proposals of some County Borough Councils to include another area; and he wished to make plain the objections of County Councils to any assumption that continuous urban areas should naturally and properly be placed under a single Local Authority. The type of area affected which he had in mind was such an Administrative County as the West Riding of Yorkshire, where there were numbers of highly developed industrial areas not far removed from each other, but depending, in the County Councils' view, on industries distinct from the industries of the large County Boroughs, and now under the jurisdiction of Local Authorities capable of providing, or arranging the provision of, all requisite local government services. Such urban areas had, in his opinion, often developed for economic reasons which had nothing to do with the presence or absence of a County Borough in their neighbourhood; and it could be shown that their development and their rateable value were in no way influenced by the existence of County Boroughs, the Councils of which might consider that it was desirable to extend their jurisdiction over such areas.‡

1114. Sir William Vibart<sup>§</sup> Dixon said that the first argument often used to indicate community of interest between the County Borough and a proposed added area was that the area proposed to be added abutted on the Borough boundary, and that the Borough was hemmed in by a succession of such areas. He thought that undue weight had been attached to this argument in cases in which it was true that the boundary of the proposed added area touched the boundary of the Borough, but the area as a whole was far removed from the centre of government in the Borough. In such a case, what was called contiguity was present

\* Dent, Q. 8146-54 (III, 538), Q. 8197-205 (III, 540).

† Dent, M. 44 (III, 536).

‡ Dent, Q. 6911-23 (III, 459), Q. 8206-29 (III, 540).

as a matter of definition, but was not present in the sense in which it should be allowed to contribute to an argument that there was community of interest between the County Borough and the proposed added area.\*

*As to Municipal Housing Estates.*

1115. Mr. Dent said that County Borough Councils had relied upon the argument that they should be allowed to include in the County Borough areas containing factories, for the workers in which the County Borough Council provided housing accommodation. The reply of County Councils to this argument was that if the circumstances gave rise to any grievance on the part of County Borough Councils, County Councils could also point to areas of low rateable value in the Administrative County the inhabitants of which made expensive demands for local government services, and that County Councils also "provide" houses for people working in factories situated outside the Administrative County; but that it was not suggested that County Councils should, for that reason, be entitled to include within the boundaries of the Administrative Counties those parts of County Boroughs into which the people went to work.†

Mr. Dent explained that in referring to the provision of housing accommodation by County Councils, he did not mean that the County Councils themselves provided houses, but that the houses were provided by the Sanitary Authorities within the Administrative County, and that the demand for services resulting from this provision had to be met both by the Sanitary Authorities and by the County Councils. The objection of County Councils to the importance which had been attached to this argument was that County Borough Councils had felt it open to them to use in their favour the fact that (a) there were works in the Administrative County and the people employed in the works lived in the County Boroughs, and the fact that (b) there were works in the County Borough and the people employed in the works lived in the Administrative County, as illustrating the community of interest said to exist between the County Borough and the part of the Administrative County affected. He thought that it would be disastrous if the process of interchange between town and country populations, and the establishment of works in districts of a rural character, were checked by the acceptance of the principle that the extension of the boundaries of County Boroughs was a necessary consequence of the redistribution of population and industry. It was not suggested that the argument in itself had been put forward, or accepted, as conclusive, but

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\* Vibart Dixon, M. 10 (a) (III, 586), Q. 9195-207 (III, 587).

† Dent, M. 45 (III, 536).

County Councils wished to urge that much less weight should be attached to it in future than, in their opinion, had been attached to it in the past. §

*As to Municipal Works and Services.*

1116. Mr. Dent said that County Borough Councils had commonly relied upon arguments to the effect that they should be allowed to include in the County Borough areas in which they had thought fit to erect sewage disposal works or other municipal establishments, or for which they had provided transport facilities such as tramways and omnibuses.\*

1117. The reply of County Councils to this argument was that it appeared to give Town Councils almost unlimited discretion as to the extent of the area which would ultimately be included within County Borough boundaries. At the same time, Mr. Dent admitted that the discretion of a County Borough Council in selecting a site for certain kinds of establishments was narrowly limited by geographical conditions, and was controlled by the requirements of Government Departments that other conditions should be satisfied. The limitation would be most narrow in relation to sewage disposal works or electricity works, or parks or open spaces, or water reservoirs; the selection of sites for municipal houses or institutions such as mental hospitals might be more in the discretion of the County Borough Council; and as regards transport services, which, as has previously been stated, County Councils desired entirely to exclude from consideration, the discretion of the County Borough Council was limited, first, by the demand for the services, and, secondly, by the control of Parliament, under which the Council were required to specify the particular routes upon which it was proposed to provide the services. †

Mr. Dent did not wish to suggest that, within these limitations, County Borough Councils had attempted to select for municipal institutions the sites which would best enable them subsequently to argue that the area in which the institutions stood should be included in the County Borough; but he thought that, assuming that a site was chosen on its merits, it nevertheless was bound to be mentioned by the County Borough Council in putting forward a proposal for extension, as a fact contributory to their case as a whole, that they had established a particular institution in a particular County District which they desired to include within the boundaries of the County Borough. ‡

1118. Under this head, Sir William Vibart Dixon pointed out, in relation to the provision of transport services, that the argument

§ Dent, Q. 8230-49 (III, 541).

\* Dent, M. 46 (III, 536).

† Dent, Q. 8250-66 (III, 542).

‡ Dent, Q. 8267-77 (III, 543).

that it was desirable to extend the boundaries of a County Borough to the furthest point served by the Town Council's tramways or omnibuses would, if universally accepted in its logical completeness, lead to conclusions inconsistent with the present delimitation of local government areas. He accepted the view that in practice the argument was only used to the extent that it was said that there was a regular inter-change of people between the County Borough and the proposed added area which was facilitated by the provision of transport services by the County Borough Council; but he considered that no argument of this kind ought to be admitted to carry weight, because, if it were, it was one of the elements which contributed to the impression that community of interest existed between the two places, whereas the proper method of regarding transport facilities was to look solely to the efficiency of the service without regard to the question of the extension of County Borough boundaries.\*

1119. Sir William Vibart Dixon drew attention to the facts governing the supply of gas, water, or electrical energy by County Borough Councils which have already been summarized, and said that the tendency of County Borough Councils to turn these facts to account as contributing to an argument for the extension of the boundaries of the County Borough was detrimental to good government, because it had the result of preventing Local Authorities, in areas which might form the subject of proposals for extension, from entering into agreements for the supply of these services which would have been beneficial both to the County Borough Council and to the inhabitants of the other areas concerned. In his view, the conditions imposed by Parliament upon water and gas supplies and upon the formation of areas for the generation of electrical energy had shown that the proper policy was to secure the provision of these services over comprehensive areas which could not be scientifically designed if they were to correspond with local government boundaries. Hence the administration of such services ought to be carried out by Local Authorities working in agreement with each other, and no weight should be attached to the argument that it was desirable to extend the jurisdiction of a County Borough Council for the purpose, among other things, of securing an efficient and economical supply of water, gas, or electricity.†

*As to Unified Schemes of Sewerage and Sewage Disposal.*

1120. The witnesses on behalf of County Councils devoted much attention in their evidence to the question of the proper relation which existing or proposed agreements for the joint

\* Vibart Dixon, M. 10 (b) (III, 586), Q. 9212-20 (III, 587).

† Vibart Dixon, M. 10 (e) (III, 587), Q. 9195 (III, 587), Q. 9230-48 (III, 588).

provision of sewerage† or the joint administration of sewerage§ disposal, between a County Borough Council and the Local Authority of a County District, should bear to the question of the extension of the boundaries of the County Borough.

1121. Their first objection to the operation of the existing law and procedure was that under it these questions might be raised by a County Borough Council for the first time either in their representation in favour of an alteration of boundaries, or, at even later stages, before the Inspector who was holding a Local Inquiry into the proposal, or the Committee on the Bill. This view was summed up in the following passage of Sir William Vibart Dixon's evidence¶ :—

"9296. . . . What I find is that very often the question of the sewage disposal works of neighbouring Authorities only appears for the first time when there is an extension scheme on.

"9297. That is to say, that is called in as an argument of advocacy where it would not appear to be the moving cause?—It would have slept very quietly if no extension scheme had come along.

"9298. It is common ground between all members of the Commission, and I think all the witnesses, that the question of sewage disposal is a weapon in the armoury of every Borough that requires to extend, and ought to be?—It is highly important.

"9299. Do you agree that that should in itself make a strong *prima facie* case, apart from anything else?—No, except in certain circumstances.

"9300. Is it the view of the County Councils that this sewerage and sewage disposal question should not be, and ought not to be, considered as a matter which produces a bias or tendency in one direction *per se*?—No, it is the wrong way of going about it.

"9301. That is to say, it is one of the elements to be considered if there is generally a *prima facie* case?—Yes."

He did not suggest that these questions should be excluded from the scope of the inquiry into particular proposals, because he agreed that they might be relevant to any case, and that in particular cases they might be of great importance. But although he accepted the view that the issue was to determine in each case the weight which should be attached to arguments on these questions, if such arguments were put forward, he suggested as a general principle that sewerage and sewage disposal were not matters which should be brought into consideration as prominent reasons for altering the boundaries of a County Borough, but were matters proper to be considered as subordinate to the main issue of the good government of all the areas affected, which ought to be examined on the lines of the suggestions made by County Councils.\*

1122. Two points were raised on behalf of County Councils in support of this general argument. It was said, first, that there was no certainty that if the boundaries of a County Borough were extended in circumstances in which the

† *Sewerage* means "sewers collectively; the system of sewers belonging to a particular locality" (O.E.D.).

§ *Sewage* means "refuse matter conveyed in sewers" (O.E.D.).

¶ Vibart Dixon, Q. 9296-301 (III, 593).

\* Vibart Dixon, Q. 9313-4 (III, 593), Q. 9326-30 (III, 594), Q. 9378-9 (III, 596), Q. 9383-7 (III, 596).

improvement of the sewerage or the sewage disposal in the enlarged Borough was one of the principal grounds for the extension, the improvement would in fact result. Sir William Vibart Dixon stated that instances had occurred in the West Riding of Yorkshire in which it had been found that the evidence given on behalf of a County Borough Council as to the possibilities of improvement had not taken into account physical facts which stood in the way of the improvement; and that in other instances improvements which were practicable had only been carried out after unreasonable delay, and under pressure from the West Riding of Yorkshire Rivers Board and the Minister of Health.†

Secondly, it was submitted that any case put forward by a County Borough Council in favour of the inclusion in the Borough of a proposed added area on the ground that it was desirable to make a single scheme for sewerage or sewage disposal in the County Borough and in the added area was unsound, and should properly be regarded as contributory to the case against the proposal for extension.\*

1123. In the opinion of County Councils, it was the duty of the authorities empowered to determine whether the proposal was desirable to take into account the fact that agreements for joint drainage and similar services could be made between the County Borough Council and the Local Authority of any proposed added area, and to give due weight to this fact in opposition to the doctrine that the whole area could only be properly drained if it were administered by a single Local Authority. They pointed out that a joint arrangement for drainage or any similar service was capable of being easily revised so that it became applicable to the whole or any part of the areas of the Authorities concerned; and that such an arrangement did not involve any interference with the status of the Local Authorities who entered into it.‡

1124. The County Councils' argument was, in short, that combination between Local Authorities (of whom one was a County Borough Council) for the purpose of providing a proper system of drainage in their areas, should normally be regarded, not as a stage in a process which led to the extension of the boundaries of the County Borough concerned, but as an end in itself. This view was expressed as follows by Sir James Hinchliffe, the Chairman of the County Council of the West Riding of Yorkshire† :—

“ 8905. . . . My point is this, that in these cases there is quite a simple way out of the difficulty, and that is by coming to a common arrangement. If a district requires certain services from the County Borough and they are

† Vibart Dixon, *M.* 10 (*f*) (III, 587), Q. 9308 (III, 593).

\* Dent, *M.* 47 (III, 537).

‡ Dent, Q. 8278–97 (III, 543); Vibart Dixon, Q. 9307–8 (III, 593), Q. 9316–19 (III, 593).

§ Hinchliffe, Q. 8905–6 (III, 573).



agreeable to supply those services, then those services should be paid for, and it simply means, instead of all this unrest and constant disturbance of local government, that they put their heads together and in the case of two neighbouring Authorities they agree that a certain payment shall be made for certain services rendered. I do not consider that any of the points which are put forward could not be arranged in that way.

"8906. That is what I think I put to you. It is because you think that that is the way in which these various matters could be arranged, that they ought not to be used as a ground for extension?—That is so."

1125. The witnesses on behalf of County Councils further suggested that if it were understood that combination for these purposes was to be regarded as an end in itself, the existing difficulties which stood in the way of combination would in many cases be removed. "I think," said Mr. Dent, "you will give a considerable impetus to the possibility if you damp down these applications for extensions; they will realize that they will have to take another road."\*

Sir William Vibart Dixon said on this point that at present, in his experience, the supposition that any joint arrangement would be referred to by the County Borough Council as a fact in favour of any proposal for the inclusion of any County District concerned within the boundaries of the Borough, did deter other Local Authorities from entering into an arrangement with the County Borough Council, when they might otherwise recognize that such an arrangement would be a good solution of their difficulties. He gave as an example a discussion which was in progress on the question whether the Shipley Urban District Council should borrow money in order to provide a separate sewage disposal works of their own, or should enter into an arrangement with the Bradford City Council for the necessary improvements. In his view, the question was very important and ought to be considered on its merits; but so long as the Local Authorities of County Districts were afraid that the moment they combined with a County Borough Council the Council would say that they were rendering a service which justified them in proposing to include the area served within the Borough boundaries, that fear would prevent the combination. This was a mischievous thing, and his experience was that not only in Yorkshire, but in most parts of the country, the Local Authorities of the smaller areas had the same fear of being absorbed in a County Borough if they entered into combination with a County Borough Council, and commonly believed that any agreement was treated by County Borough Councils as a stage in the process which led to the absorption of the areas of the other Authorities who were parties to the agreement.†

1126. It was recognized on behalf of County Councils that even if combination for the drainage of the area of a County Borough together with that of one or more County Districts

\* Dent, Q. 8313 (III, 544).

† Vibart Dixon, Q. 9264 (III, 591), Q. 9271-3 (III, 591), Q. 9345-55 (III, 595).

were accepted as a general substitute for the extension of the boundaries of the County Borough, cases would remain in which the desirability of making improved drainage arrangements must be taken into account as an argument relevant to the question of extension. But they desired that the two questions should so far as possible be kept apart, and Sir William Vibart Dixon considered that, on merits, they were becoming less closely connected with each other, because with the development of scientific methods of sewage disposal it seemed probable that a wide organization for an area greater than the area which could in any event be placed under the jurisdiction of a single Local Authority was more and more likely to be required in those parts of the country in which the problem was most pressing.† The extent to which this consideration had already prevailed with Local Authorities was shown by the fact that there were at the present time 46 Joint Sewerage Boards and Committees and 219 Drainage Authorities so constituted as to cover the area best fitted to the needs of the several Local Authorities for that special purpose.§

1127. It was further recognized that even if combination for purposes of sewerage and sewage disposal were put into proper relation with proposals for the extension of the boundaries of County Boroughs, cases would remain in which one or more of the Local Authorities concerned declined to enter into a combination which was desirable on the grounds of efficiency and economy.\*

Up to this stage the argument had proceeded on the assumption that the wishes of the inhabitants in areas which ought to be combined with a County Borough for sewerage or sewage disposal were opposed to the inclusion of their areas within the boundaries of the County Borough for all purposes of local government.

1128. In cases in which there was an unreasonable refusal by the Local Authority of a County District to enter into combination with the Council of a County Borough, that refusal might have the effect of altering the views of the inhabitants on the question of the inclusion of their area in the County Borough for all purposes, as an alternative to combination with the County Borough Council for the specific purpose of sewerage or sewage disposal. We were told that from the point of view of County Councils there would be no chance of a successful opposition to the proposal of the County Borough Council for extension of the Borough on this ground if the inhabitants of a proposed added area were to that extent on the side of the County Borough Council, and not on the side of the County Council in opposition

† Vibart Dixon, Q. 9259 (III, 590), Q. 9263-4 (III, 591), Q. 9316-9 (III, 593), Q. 9337-8 (III, 595), Q. 9428 (III, 598).

§ Ministry of Health (Gibbon), Appendix XII, Table C (I, 159); Vibart Dixon, Q. 9356-7 (III, 595).

\* Vibart Dixon, Q. 9351-2 (III, 595).

to the proposal. All that would remain for the County Council to urge would be the general objection to the proposal on the ground of its effect on County administration, apart from the sanitary question on which the County Borough Council and the inhabitants of the proposed added area were at one.†

1129. In other cases, the inhabitants of a proposed added area might continue to acquiesce in the unsatisfactory sanitary condition of the area, and might be unwilling that the Local Authority should either enter into combination with the County Borough Council or improve the conditions for themselves. If the effect of their attitude upon the sanitary condition of the area was to create a nuisance which was a menace to the health of the inhabitants of the County Borough, and the County Borough Council were willing to make proper arrangements in the area if it were included within the boundaries of the Borough, the witnesses on behalf of County Councils agreed that an argument on this basis would be properly put forward by the County Borough Council in favour of any proposal which they might make for including the area in the Borough.‡

1130. It was, however, suggested that, in cases in which the sanitary defects of a County District had not so affected the wishes of the inhabitants that they were favourable to the inclusion of the area in a County Borough, the Council of which could remedy the defects, the County Borough Council should be required, before making any proposal to include the area in the County Borough on the ground of its sanitary state, to make formal complaint both (a) to the Sanitary Authority responsible, and (b) to the County Council of the Administrative County in which the area lay, in order to give these Authorities an opportunity of remedying the defects by some method alternative to the inclusion of the area in the County Borough.⁴

The witnesses on behalf of County Councils expressed the view that, in the absence of such a requirement, an unfair presumption was set up in favour of any proposal to include a County District in the County Borough merely on the ground that the arrangements in the District for sewerage or sewage disposal were defective; and they urged that the County Borough Council should be required to show that full resort to the existing law had been made before it was proposed to have recourse to the extension of the boundaries of the County Borough as the proper remedy. §

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† Hinchliffe, Q. 8931 (III, 574), Q. 8953-7 (III, 575).

‡ Hinchliffe, Q. 8938-45 (III, 574); Taylor, Q. 10,033-5 (III, 622), Q. 10,048 (III, 623).

\* Vibart Dixon, Q. 9339-43 (III, 595), Q. 9410-1 (III, 598), Q. 9417-8 (III, 598); Taylor, Q. 10,033-5 (III, 622), Q. 10,084-5 (III, 624).

§ Taylor, Q. 10,077-9 (III, 624), Q. 10,105 (III, 625).

They further suggested that the County Borough Council should be required to give notice of their complaint (c) to the Minister of Health, at the time at which they made it to the appropriate Local Authorities.†

1131. The powers of County Councils and of the Minister of Health under the existing law to deal with the state of affairs in which the Sanitary Authority of a County District decline to make proper provision for sewerage in their area were stated in the following passage of Sir William Vibart Dixon's evidence§ :—

"9331. (*Sir Lewis Beard*): . . . There is a power in the Public Health Act, section 299, I think, to the Local Government Board, now the Ministry of Health, where a Local Authority makes default in the provision of sewers in its district and one or two other things to take proceedings, and ultimately to get a mandamus?—Yes.

"9332. There are also certain powers in other Acts to proceed with respect to a Rural District Council. If a Local Authority makes default in (a) the provision of sewers, (b) the provision of a water supply, or (c) in enforcing any provisions of this Act which it is their duty to enforce, the Minister of Health may compel the performance of the aforesaid duties by Order enforceable by writ of mandamus or by the appointment of some person to perform the duties. Then this is the statement of the practice of the Minister: 'The practice of the Ministry of Health is to confine the operation of this section to sewerage and water supply. The Ministry has decided that it does not regard the section as applicable to such matters as the non-enforcement of byelaws, the provision of privies,' and so on?—Yes.

"(*Sir Walter Nicholas*): Have you any record to what extent these powers have ever been exercised?

"9333. (*Sir Lewis Beard*): I was coming to that. This is a quotation from Lumley's Public Health, Ninth Edition: '(h) The alternative procedure open to the Ministry of Health under the section—of appointing some person to perform the duty—is never adopted by them, and was not favoured by the Local Government Board. It was once stated on behalf of the Local Government Board in proceedings in the High Court that they had found it practically impossible to perform the duty of a defaulting Authority by means of some other person, and that it was not for them as the central authority to descend into the arena of local difficulties and to undertake to do for a defaulting Authority that which the statute clearly required the Authority to do.' That is correct, is it not?—I have no doubt it is.

"9334. In respect to Rural District Councils, the Local Government Act, 1894, section 16, says that if a Rural District Council makes default in (1) the provision and maintenance of sewers, (2) the provision of a proper water supply, (3) the enforcement of the Public Health Acts, or (4) the maintenance and repair of highways, the County Council, on the complaint of the Parish Council, may transfer the aforesaid duties to the County Council or may make an Order on the lines mentioned in section 299 of the Public Health Act, 1875. Have you ever known a case in which a Parish Council has complained?—I do not think in the West Riding we have had one single case.

"9335. Is that because it has not occurred, or because the Parish Councils do not want to have costs put upon them?—They would be complaining against their own Council, and also, no doubt, there is the fact that the cost of the sewers would fall upon the parish as a rule. I think you may take it that that is a dead letter.

"9336. I thought you would say so. We need not trouble any further about this. Then we had some evidence from Mr. Gibbon, which is on page 67 of Part I of the Minutes of Evidence. At Question 1673, the Chairman says, 'Now we come to paragraph 139 with regard to the Ministry's powers to act in default. I think you say that they are really not very

† Taylor, Q. 10,085 (III, 624).

§ Vibart Dixon, Q. 9331-6 (III, 594).

effective, and that the procedure by mandamus does not lead very far?—That is so. (1674.) You say there is the remedy under the Housing Acts—we need not go into that. Later on, Sir Ryland Adkins asked, at Question 1682, ‘As a matter of fact, have your Department ever acted in default of any Local Authority?—There have been cases in which we have had a mandamus. (1683.) But after you have got your mandamus, what have you done?—Then the Local Authority proceeds to carry out its duty. I do not think that since 1874 the Department themselves have ever appointed a person to carry out works, but there are cases before 1874 where that was done. (1684.) Since 1874 it has never been done?—No, not appointing a person directly. (1685.) And in Counties there is in some cases power to use the County Council?—Yes. (1686.) That has never been done in practice?—I do not know of a case which has arisen. (1687.) You have never known a County Council which has sought this invidious power?—No, I do not think they would be very anxious to undertake it.’ Then, at Question 1688, Sir Walter Nicholas asked, ‘Have they ever invoked the power?—I cannot say that they have done it expressly. (1689.) I think I remember Glamorgan doing it?—When Medical Officers of Health try to teach the Local Authorities’—that is rather cryptic. Then Sir Walter Nicholas says, ‘It is a very useful power?—Yes, as a matter of fact the measure of the usefulness of these powers is not the action which is taken directly under them, but chiefly the value of having a big stick.’ (*To the Witness*): You agree that this is no doubt a very important question, and that we must have the view of the Ministry upon it before we come to any conclusion?—No doubt.”

1132. Sir William Vibart Dixon agreed that the present law was defective in the following particulars:—

(a) The County Council have no power to act in default of the Council of an Urban (as distinct from a Rural) District who fail to make proper provision for sewerage in their area\*;

(b) The power of a Parish Council to complain that a Rural District Council have made default in this respect is a dead letter, because the Parish Council do not wish the inhabitants of the parish to pay for the necessary sewers, which they would as a rule be required to do, and also do not wish to be in the position of lodging complaints against the Council of the Rural District in which the parish lies†;

(c) The power of the Minister of Health to proceed by mandamus against a Local Authority who are in default is not effective‡;

(d) The power of the Minister of Health to undertake the necessary work directly is not effective‡;

(e) The Minister has power to enforce the duty of providing sewerage upon particular Local Authorities, so far as an Order enforceable by mandamus carries him, but he has no power to require that one Local Authority shall combine with another for this purpose.||

1133. As regards the use of the powers conferred by the existing law to secure proper provision for sewage disposal in

\* Vibart Dixon, Q. 9252-8 (III, 590).

† Vibart Dixon, Q. 9334-5 (III, 594.)

‡ Vibart Dixon, Q. 9336 (III, 594).

|| Vibart Dixon, Q. 9250-1 (III, 589), Q. 9262 (III, 591).

County Districts, Sir William Vibart Dixon said that when a complaint was made to the County Council of the West Riding of Yorkshire they were in a position to take various steps, and had done so, in order to secure proper provision, whether or not the County District was so situated that a County Borough Council might propose to remedy the defect by including the District within the boundaries of the Borough.¶

In the first place, the County Council co-operated very closely with the West Riding Rivers Board, on which were represented not only the County Council but also the Councils of all County Boroughs within the West Riding, and the attention of the Board would be called to the default and to the fact that the improper disposal of sewage was causing pollution of rivers within the jurisdiction of the Board. The result would be that the Board would put pressure upon the Local Authority responsible for such pollution.\*

Secondly, the County Council would be in a position to put pressure upon the Local Authority in default through the County Medical Officer of Health, who had general supervisory power over the sanitary arrangements in County Districts, and had in fact conducted a systematic survey of the Administrative County since the County Council were established in 1889. As a result of that survey many defects in the provision existing for sewage disposal (and also for sewerage) had been brought to light, and the Local Authorities of the County Districts in question had in many instances been induced, partly by threats and partly by persuasion, to put down sewage disposal works (and also sewers).†

Thirdly, the County Council had a general power of making representations to the Minister of Health on such questions as sewerage and sewage disposal, and they could exercise this power with a view to moving the Minister to exert such pressure as he could upon the Local Authority of any County District in default.‡

1134. As to the practical efficiency of the existing law and procedure in this matter, Sir William Vibart Dixon said that in his experience the present methods of representation and persuasion were in most cases quite sufficient to secure the execution of work which could reasonably be required, and that it would be only in exceptional cases that any further powers conferred by the law would need to be invoked.‡

1135. Mr. Taylor said that in Lancashire the County Council had made a very complete survey of the sanitary conditions in

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¶ Vibart Dixon, Q. 9339-41 (III, 595).

\* Vibart Dixon, Q. 9342 (III, 595), Q. 9365-72 (III, 595).

† Vibart Dixon, Q. 9342 (III, 595).

62 out of the 121 County Districts in the Administrative County since 1909, and that in addition 90 re-inspections had been made, in several instances on as many as five occasions. As a result, a very large number of improvements had been brought about by co-operation between the County Council and the Local Authorities of County Districts. He mentioned that the County Council had never had any protest from the Local Authorities of the County Districts in regard to the extent or nature of the supervision exercised by the County Council; that the County Council and the Sanitary Authorities worked in complete accord; and that the County Council were frequently asked to help the Sanitary Authorities both in regard to personnel and in other ways. While, therefore, he did not suggest that some effective kind of compulsory power should not be vested in the Minister of Health in the last resort to bring about a proper system of sewage disposal in a particular County District, the Lancashire County Council had never had occasion to use the powers which they possessed (with respect to sewerage) to act in default of a Rural District Council, and he would be sorry to see them entrusted with the power of applying any further compulsory measures to Sanitary Authorities, because he thought that this course would destroy the good relations which existed between the County Council and those Authorities, and would put a stop to the good work which was being done. He was not, however, in a position to say to what extent the operation of the existing law and procedure was satisfactory in other Administrative Counties.\*

1136. Mr. Dent, in discussing the operation of the existing law, admitted that joint arrangements between Local Authorities for the provision of sewerage, or the administration of sewage disposal, which were desirable in themselves, were in certain cases difficult, or impossible, to make, because of an unreasonable refusal by one or more of the Local Authorities concerned to enter into such arrangements. He was not prepared to rule out the possibility of applying compulsion to such Authorities in order to bring them into combination, but he was anxious to avoid this course, and suggested that power might be taken to send such cases to arbitration and to give the decision binding force upon the Authorities concerned. At the same time, he considered compulsory combination, provided that it were only enforced as a last resort upon Local Authorities who had been shown to be acting unreasonably, a lesser evil than a proposal that a County District should be included within the area of a County Borough on the sole or main ground that the Local Authority of the District had done nothing to remedy sanitary defects.†

\* Taylor, Q. 9954-65 (III, 619).

† Dent, Q. 8305-21 (III, 544), Q. 8326-35 (III, 544).

1137. Sir James Hinchliffe suggested that when difficulties arose between the Council of a County Borough and the Council of a County District with regard to the provision of sewerage or the administration of sewage disposal, the matter should be reported to the Council of the Administrative County in which the County District lay, and to the Minister of Health, and that the County Council and the Minister should use their good offices in order to bring the Local Authorities primarily concerned into agreement.‡ If it were the fact that under the existing law County Councils had not sufficient powers, at any rate in relation to the sewerage of Urban Districts, to bring about a reasonable agreement, he thought that their existing power to act in default of a Rural District Council in this respect should, in the interests of public health, be extended so as to apply to the Council of an Urban District, not because he was anxious to ask for further powers for County Councils, but because he thought that such an amendment of the law would provide an alternative to the inclusion of an Urban District within the boundaries of a County Borough.§

1138. Sir William Vibart Dixon said that, in his opinion, the amendment of the law relating to sewerage and sewage disposal was necessary in the following matters:—

(a) As regards the powers of County Councils, the law should be so amended as to enable a County Council to remedy the condition of things under which a Rural or an Urban District on the confines of a County Borough had become a menace to the inhabitants of the County Borough, because the District was not provided with a proper system of sewerage or scheme of sewage disposal\*;

(b) As regards the powers of the Minister of Health, the law should be so amended as to empower the Minister to compel Local Authorities to enter for these purposes into agreements for joint working arrangements which could be shown to be desirable. If legislation were proposed, the obligations of each of the Local Authorities who might be required to enter into an agreement must be similar, that is to say, it should be possible for the Authority of a County District who wished to put sewage into the sewers of a County Borough Council to represent to the Minister that the two Authorities ought to combine for this purpose, just as it would be open to the County Borough Council to make a similar representation.†

1139. His advocacy of further powers of compulsion upon Local Authorities for this purpose was qualified by a proviso

‡ Hinchliffe, Q. 8914-9 (III, 573), Q. 8928-9 (III, 573).

§ Hinchliffe, Q. 8951 (III, 574), Q. 8958-64 (III, 575).

\* Vibart Dixon, Q. 9252-8 (III, 590).

† Vibart Dixon, Q. 9251 (III, 589), Q. 9262 (III, 591).



that there must be safeguards against the unreasonable use of such powers. He said that he meant by this that combination should not be forced upon the Local Authority of a County District who had properly provided for the area by establishing an independent scheme of sewage disposal. Such an Authority might in the past have been unable to obtain admission for their sewage into the sewerage system of an adjacent County Borough because the County Borough Council's works were not then complete. The records of the County Council of the West Riding of Yorkshire showed that for many years the schemes of County Boroughs have been technically in default, in that the Councils had not provided adequate sewage disposal works, and pressure had been put upon the Councils by the West Riding Rivers Board and the Minister of Health. Hence it must not be supposed that independent provision for this purpose had been wrongly made by the Local Authorities of some of the County Districts in the past, nor should that provision, if it were now efficient, be disturbed merely in order to reduce the number of separate sewage disposal works.†

*As to Unified Administration of Other Health Services.*

1140. Sir William Vibart Dixon said that the views which he had stated on the question of the relation between proposals for unified schemes of sewerage and sewage disposal covering County Boroughs and County Districts, and proposals for the extension of the boundaries of County Boroughs, were, in his opinion, applicable to sanitary services other than sewerage and sewage disposal. § In relation to these services also, County Councils felt that the operation of the existing law and procedure was unfair to them, because it enabled a County Borough Council, in making a proposal for the extension of the Borough boundaries, to base arguments in favour of the extension upon allegations of sanitary defects in the proposed added areas of which the Sanitary Authority and the County Council had had no specific notice in advance of the representation made by the County Borough Council, or perhaps not even in advance of the Local Inquiry into a proposal made by application for a Provisional Order.

He suggested that apart from any question of the amendment of the existing law and procedure, either in relation to the extension of the boundaries of the County Boroughs or in relation to the position of Sanitary Authorities who were in default, a County Borough Council should be required, before putting forward arguments for the extension of the boundaries of their area based upon alleged sanitary defects in the proposed added areas, to have made a complaint both (a) to the Sanitary Authority, and

† Vibart Dixon, Q. 9273 (III, 592).

§ Vibart Dixon, M. 10 (7) (III, 587).

(b) to the County Council concerned, that the health of the inhabitants of the County Borough was being menaced by the sanitary state of the County District.\*

1141. In his view, a County Borough Council should not be entitled to use arguments of this kind at all unless they could show that by making a complaint they had given a reasonable opportunity to the Sanitary Authority and the County Council to remedy the state of affairs on which the complaint was based†; but assuming that it was not practicable absolutely to exclude such arguments from consideration unless the County Borough Council had previously made complaints, he urged that it should be the recognized practice of the authorities who had to determine whether the proposal was desirable to refuse to consider sanitary defects, even if proved, as a primary or principal ground for holding that an extension of the boundaries of a County Borough ought to be made, and to discount heavily any argument based upon alleged sanitary defects which was raised by a County Borough Council for the first time in making their representation in favour of the extension, or in appearing at a Local Inquiry into the proposal.‡

1142. Mr. Dent had urged generally that less weight should in future be attached to the argument that the increasing number of necessary local government services rendered it desirable to enlarge the area over which County Borough Councils had jurisdiction. The County Councils' reply to this argument was that the increasing number of services required at the present day, especially in the sphere of public health, were provided as efficiently by the Councils of Counties and of County Districts, by means of co-operation and combination, as by County Borough Councils, and that it would be manifestly unfair to add to the resources of the County Borough Councils in order to enable them to discharge their new obligations more satisfactorily, while at the same time diminishing the resources of the County Councils, who were frequently required by Parliament to levy rates upon the ratepayers in the Administrative County for the purposes of the same services.§

*As to Educational Facilities.*

1143. Under this head, Sir William Vibart Dixon said that he took objection to the form of the references to the existence of a University within the boundaries of a County Borough made by certain County Borough Councils in representations in favour of the extension of the boundaries of the County Borough. While it was not unreasonable for a County Borough Council to state

\* Vibart Dixon, Q. 9394-5, 9399, 9405 (III, 597).

† Vibart Dixon, Q. 9405 (III, 597), Q. 9410-1, 9417-8 (III, 598).

‡ Vibart Dixon, Q. 9404 (III, 597), Q. 9412, 9414-6, 9428 (III, 598).

§ Dent, M. 48 (III, 537), Q. 8336-7 (III, 544).

in their representation, as a fact, that a University existed in the County Borough, it should be recognized that it was improper to base any argument in favour of the extension of the boundaries of the County Borough upon the existence of the University within those boundaries, or the facilities provided by the University for persons who were not resident in the County Borough.†

1144. He further suggested that little, if any, weight should usually be attached to any argument in favour of the extension of the boundaries of a County Borough founded upon the existence within the Borough boundaries of facilities for higher education available to the inhabitants of surrounding districts. Places in which there were considerable numbers of people and highly developed industries, whether County Boroughs or not, necessarily formed the centres for the highest types of technical instruction and for secondary schools, and if these facilities were used by pupils from the Administrative County, the County Council paid full value for the services obtained.‡

#### ARGUMENTS NOT REQUIRING FURTHER REGULATION.

##### *General.*

1145. The witnesses on behalf of County Councils stated under the preceding heads the arguments which in their view should either be excluded, with or without conditions, from consideration by the authorities empowered to determine whether it was desirable to extend the boundaries of a County Borough; and the arguments which, if admitted before these authorities, should be recognized in advance as entitled to less weight than they were given under the existing procedure. They indicated in other passages of their evidence the arguments which they considered proper for examination in relation to all proposals for extension, and the conditions under which they thought that favourable consideration might properly be given to such proposals.

1146. The late Lord Long, in explaining the views which he had held while taking part in the preparation, and the conduct through Parliament, of the Bill of 1888, said that he always had in mind the probable necessity for the extension of Borough boundaries in some cases, and that a provision for the purpose was inserted in the Bill at the outset. Never for one moment, however, had he anticipated that advantage should or would be taken of that provision for the purpose of applications for extensions such as had been made of late years. His own view of the object of the provision in the Act was, and always had been, that

† Vibart Dixon, M. 10 (c) (III, 586), Q. 9221-9 (III, 588), Q. 9373-4 (III, 596)

‡ Vibart Dixon M. 10 (d) (III, 586).

there should be proper opportunity for a County Borough Council to claim a moderate adjustment of the Borough boundaries in cases in which it could be shown either (a) that without such extension the proper administration of the existing Borough area would be impaired, or (b) that an obvious and necessary outgrowth of the Borough should, in the interests of good local government, be administered as part of the Borough.\*

*As to the Good Government of the Borough.*

1147. As regards extensions of the first type, that is, those in which the administration of the Borough was prejudiced by the existence of the present boundaries, Mr. Dent said that the kind of case which he had in mind was one in which the County Borough Council were administering their existing area as well as they could, but the geographical configuration of the ground might be such as to enable them greatly to improve their administration by taking in a small additional area, without seriously affecting the County District from which the area was taken, or the remainder of the Administrative County. Services such as sewage disposal might possibly be better administered if the enlargement of the boundaries of a County Borough to that extent were permitted when good cause was shown.†

It was suggested by Sir James Hinchliffe that the impairment of the efficiency of the administration of the County Borough and of the area immediately adjoining the Borough should be the sole ground on which the extension of County Borough boundaries should be permitted‡; but in general the evidence of the witnesses on behalf of County Councils covered both this type of case and the second type of case, in which the proposal rested upon the facts of the growth of the town beyond its present legal boundaries.

*As to the Inclusion in the Borough of its Outgrowth or Overspill.*

1148. As regards proposals of the second type, for bringing within the boundaries of the County Borough that which was variously described as the outgrowth of the town or the overspill of its inhabitants, Mr. Dent explained that County Councils did not desire to rule out proposals based on such grounds, and that it was not possible for them to define in advance the proposals on that basis which they would consider as reasonable, except by mentioning certain cases in which extensions had already been made, and by naming certain circumstances, such as the erection of municipal houses by the County Borough Council close

\* Long, M. 6 (III, 563).

† Dent, M. 62 (b) (III, 549), Q. 8510-4 (III, 552).

‡ Hinchliffe, Q. 8900-3 (III, 573), Q. 8975 (III, 575).

to the boundary of the Borough, which might afford good ground for an inquiry into the question whether the housing estate should be taken into the Borough.\*

But County Councils agreed that these matters were properly to be regarded as within the scope of the investigation of a proposal by a County Borough Council only on the assumptions that (i) proposals would be supported by proof of exceptional circumstances, and (ii) the avoidance of detriment to County administration would be accepted as the paramount consideration by the authorities responsible for investigating proposals.†

### **Evidence on behalf of Urban and Rural District Councils.**

ARGUMENTS WHICH, IF ADMITTED, SHOULD HAVE LESS WEIGHT.

1149. The witnesses on behalf of Urban District Councils and Rural District Councils supported the view of witnesses on behalf of County Councils that it was undesirable for the proper authorities to attach weight to any argument in favour of the extension of the boundaries of a County Borough based upon the fact that efficient provision already existed for the joint administration by the County Borough Council and the Council of any proposed added area of town planning, the supply of water, gas, electricity, or transport services, or schemes of sewerage or sewage disposal.‡

In their opinion, the establishment of such arrangements in suitable circumstances was the proper method of providing for the administration of such services.§ If a County Borough Council were held to be justified in arguing that the arrangements were a reason for the inclusion of the proposed added area in the Borough, District Councils would be unlikely to enter into arrangements even when the best interests of the inhabitants would be served by their doing so.||

1150. Mr. Pindar, on behalf of Rural District Councils, went on to say that the question whether a District had a proper system of sewerage or sewage disposal should be wholly excluded from the purview of the authorities who dealt with a proposal for the extension of the boundaries of a County Borough, unless the County Borough Council could prove that the sanitary circumstances of the District were injurious to the health of the inhabitants of the Borough.¶

\* Dent, M. 62 (a) (III, 549), Q. 8505-8 (III, 552).

† Taylor, M. 29 (III, 610), Q. 9874 (III, 616), Q. 9996 (III, 621), Q. 9999 (III, 621), Q. 10,053-8 (III, 623); Holland, M. 32 (V, 1120), Q. 18,415 (V, 1124).

‡ Postlethwaite, M. 5 (b) (VI, 1323); Thomas, Q. 22,866-8 (VI, 1352), Q. 22,872-3 (VI, 1352); Pindar, M. 16 (c) (VI, 1364).

§ Postlethwaite, Q. 22,280 (VI, 1324).

|| Postlethwaite, Q. 22,260 (VI, 1323), Q. 22,273 (VI, 1324); Pindar, Q. 23,152-7 (VI, 1366), Q. 23,184 (VI, 1367).

¶ Pindar, Q. 23,157-9 (VI, 1366), Q. 23,185 (VI, 1367), Q. 23,188-91 (VI, 1368), Q. 23,198 (VI, 1368).

**Evidence on behalf of Town Councils.****ARGUMENTS PROPERLY TAKEN INTO ACCOUNT UNDER THE EXISTING  
LAW AND PROCEDURE.***As to the Maintenance of Well Balanced Communities.*

1151. The witnesses on behalf of Town Councils took the view that the existing law and procedure as to the extension of the boundaries of County Boroughs ought to be so applied as to secure that in each local government area there should be, so far as possible, a proper balance between properties which gave rise to demands upon the Local Authority for local government services, and properties from which the Local Authority could derive contributions in rates which enabled them to provide those services without levying an unduly high rate upon the ratepayers.

1152. Mr. Collins explained the nature of the problem which, in his view, the Local Government Acts (including the Act of 1913, which relates to financial adjustments) were designed to meet. He said that every working class house produced less in the way of contributions to the rates than was sufficient to enable the responsible Local Authorities to meet the demand for services attributable to the occupants of the house. It had been estimated that before the war every house of which the assessable value was less than £18 a year increased the liabilities of the Local Authorities, and this figure should probably now be taken to be at least £25. In order to enable the Local Authorities to provide the services required by the occupants of such houses, without levying an unduly high rate upon the ratepayers as a whole, they must be able to count upon the inclusion within the boundaries of their respective areas of a sufficient number of shops and industrial undertakings to give them, in contributions to the rates, a reasonable set-off against the cost of the services provided for the occupants of working class houses.\*

1153. It followed that one of the matters which were properly taken into account under the existing law and procedure in relation to proposals for the extension of the boundaries of County Boroughs was that a Local Authority might, by reason of economic changes, find that in their existing area the balance of demand for services and ability to pay for them through rates had become uneven.

In one area the circumstances might be that properties which were remunerative from the rating point of view were situated outside the boundaries, while the people who found work on the valuable properties came inside the boundaries to be provided with houses and with all the local government services required as a consequence of the provision of houses.

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\* Collins, Q. 15,869-77, (IV, 969).

In another area the circumstances might be that both the remunerative properties and the people employed on them remained within the boundaries, but that the people who controlled the properties and would contribute largely to the rates as occupants of houses were the first to follow the tendency of population to disperse itself from industrial centres, and to go to live in another area in which they considered that they could find greater amenities.†

1154. Mr. Collins accordingly submitted that proposals for the extension of the boundaries of County Boroughs should normally be regarded as efforts to restore the balance between the different elements which ought to go to make up a satisfactory community for local government purposes, and that in order to enable the proper authorities to determine whether in a particular case a legitimate effort of this kind was being made, the general question of the balance of communities, as exhibited in the various aspects which he and other witnesses proceeded to specify, must be accepted as proper for consideration in relation to any proposal, and must be given such weight as the proper authorities thought fit in the light of the arguments addressed to them by all parties interested in the proposal.\*

*As to the Limitations of Arrangements for Joint Action.*

1155. The witnesses on behalf of Town Councils drew attention under this head to the suggestion made on behalf of County Councils that provision for the joint administration of services between the Council of a County Borough and the Local Authority or Authorities of one or more County Districts could be generally regarded as a suitable alternative to the extension of the boundaries of the County Borough so as to include the County District or Districts.

1156. Sir David Brooks said on this point that arrangements for joint administration were undoubtedly of value, but that they could only be regarded as the most efficient and economical way of administering a service in special circumstances, and could by no means be regarded as a substitute for the extension of County Borough boundaries, either without regard to the particular place in question, or having regard to general considerations which in his view indicated that extension of boundaries was normally the preferable course.‡

He submitted that in principle the unification of control and the uniformity of working obtained by placing a service under the jurisdiction of a single Local Authority must be considered as tending to show that a proposal for the extension of the

† Collins, Q. 15,878-95 (IV, 970).

\* Collins, Q. 15,896-9 (IV, 971).

‡ Brooks, M. 8 (IV, 880).

boundaries of a County Borough which would secure these results was a desirable proposal. In his opinion, this was a principle which did not vary with local circumstances, but should be accepted as being of general application.‡

1157. Subject to this principle, he agreed that joint administration might well be a suitable method of providing a particular service, and said that the Birmingham City Council had experience of this form of administration as applied both to a trading service, namely, the tramway service before the extension of the City in 1911, and to a non-trading service, namely, the provision of sewerage, which was still jointly administered by the Birmingham, Tame, and Rea District Drainage Board, whose area of jurisdiction comprised the City, the County Borough of Smethwick, and certain County Districts.

As regards the tramway service, the City Council, before 1911, had been under the necessity of working under joint arrangements with trading companies, and in this respect the difficulties had been more serious than they might have been if Local Authorities alone had been concerned.\*

As regards the Drainage Board, the City Council were not able to say that any difficulties in administration had arisen, but it was to be remembered that the City Council were responsible for nine-tenths of the expenditure of the Board, and that the City's representatives made up nine-tenths of the Board's membership.†

1158. Sir David Brooks further said that in his experience no objection to participation in schemes of joint administration had been made by Local Authorities in any area adjacent to Birmingham on the ground that if they participated in such schemes the City Council might subsequently endeavour to turn this fact to account as an argument in favour of including the areas concerned within the City boundaries. When, however, the City was extended in 1911, the added areas were, with small exceptions, already within the area of the Drainage Board, and this fact was brought forward on behalf of the City Council at the Local Inquiry into the proposal as an element in the evidence which went to show that the inhabitants of the whole area in question formed a single community.§

1159. Mr. Howell, Town Clerk of Wolverhampton, in dealing generally with the question of joint administration, said that it must be remembered that Local Authorities had to work through their Committees, and that their difficulty in transacting business quickly was therefore increased when they were under the necessity of co-operating with any other Local Authority in

‡ Brooks, Q. 14,201-3, 14,205-7, 14,213-4 (IV, 880).

\* Brooks, Q. 14,204-11 (IV, 880).

† Brooks, Q. 14,212-4 (IV, 880), Q. 14,224-8 (IV, 881).

§ Brooks, Q. 14,229-33 (IV, 881).



framing the terms of an agreement, preparing the necessary documents, and securing their ratification. If an agreement for joint administration were arrived at, it might or might not be necessary to establish a Joint Committee, and his general view was that arrangements of this kind were unsatisfactory alternatives to the extension of the boundaries of a County Borough in cases in which there was such community of interest between the County Borough and adjoining County Districts that a single form of local government was appropriate to the whole area. §

He was further able to draw attention to a case in which the Local Authority of a County District adjoining the County Borough had refused to co-operate in an advisory arrangement designed to facilitate town planning, with the result that a rapidly developing area adjacent to the Borough would not be subject to town planning provisions which were desirable in the interest of the inhabitants of the whole area. He was not in a position to say whether the refusal of the Local Authority to co-operate in this arrangement was due to any feeling that, if they did so they would be contributing to the arguments of the Wolverhampton Town Council in favour of including their area in the Borough; but he was inclined to suggest that the reason was rather that the Local Authority had failed to realize the importance of regulating the future development of the District in accordance with the principles of town planning. ||

1160. Mr. Ellis said that while many of the advantages secured to the inhabitants of the Three Towns by amalgamation could in fact have been secured by agreements for the joint administration of water supply, provision of mental hospitals and tramway systems, or for the purchase of tolls, there was no disposition on the part of the Local Authorities concerned, other than the Plymouth Town Council, to enter into such agreements; and that this reluctance was no doubt due in part to the prospect of the proposal for amalgamation.\*

*As to Following the Inhabitants.*

1161. On the question whether, and to what extent, it was fair for the Council of a County Borough, in proposing the extension of the Borough boundaries, to bring forward the arguments usually described as asserting a right to follow the inhabitants. Sir David Brooks said that it was important to remember that the great majority of the inhabitants of urban areas could not live inside or outside the boundaries of a particular Borough in accordance with any preference of their own. The present situation as regards the provision of houses for the working

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§ Howell, M. 25-6 (VI, 1277).

|| Howell, Q. 21,531-43 (VI, 1278).

\* Ellis, Q. 21,157-9 (VI, 1258).

classes was such that County Borough Councils were finding themselves compelled to erect houses outside their own boundaries, and to pay a subsidy to the persons who constructed such houses. The financial effect of these circumstances was that the County Borough Council who properly performed their duty of taking the necessary steps to house their over-crowded population outside the Borough boundaries were making grants out of the sums contributed in rates by Borough ratepayers in aid of the development of the areas of other Local Authorities, with a consequential increase of the rateable values of those areas.\*

Some County Borough Councils, in addition, were accepting it as a duty to undertake slum clearance schemes, and found that they had little or no available land within their boundaries on which to rehouse the inhabitants of the Borough who were displaced by such schemes. They were accordingly compelled to acquire land for the purpose in the area of another Local Authority, and by so doing they were again put into the position of improving the financial circumstances of another area at the expense of their own ratepayers.†

Further, private persons engaged in business within a County Borough who desired to erect buildings for purposes either of trade or residence were, in his view, entitled to have a reasonable range of choice of sites for houses or factories on land situated within the boundaries of the Borough.‡

1162. It should accordingly be recognized that the authorities empowered to determine whether proposals for the extension of the boundaries of County Boroughs were desirable should never be precluded from hearing arguments to the effect that such extensions should be allowed as would enable the Council of a County Borough to include within the Borough boundaries County Districts, or parts of such Districts, in which provision had been made on the initiative of the Council or of the inhabitants of the Borough either for the housing of the working classes or for the expansion of businesses belonging to owners in the Borough.§

Sir David Brooks made it clear that in his judgment the extent to which arguments of this kind could be pressed was a matter of degree about which no rule could be laid down in the abstract. He accepted the view that no settlement of boundaries would ever provide for the whole of the ebb and flow of population which might occur between County Boroughs and Administrative Counties, or remove the problems which arose from the existence of boundaries; but he urged that County Borough

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\* Brooks, M. 4 (IV, 875).

† Brooks, M. 5 (IV, 875).

‡ Brooks, M. 4 (IV, 875).

§ Brooks, M. 5 (IV, 875), Q. 14,120-6 (IV, 876), Q. 14,147-57 (IV, 877).

Councils who were making proposals for extension should be entitled to submit to the proper authorities whatever arguments on the point appeared to them to be reasonable.¶

1163. Mr. Howell, Town Clerk of Wolverhampton, gave particulars of the distribution of population and industry between the County Borough and the surrounding County Districts as an example of the problems which ought to be considered in relation to any proposal for the extension of the boundaries of a County Borough.

He said that the County Borough Council regarded the position as one in which the population of the Borough had grown and filled up the area within the existing boundaries, and had then overflowed into the surrounding County Districts. The proposal for extension which had been made by the County Borough Council was in their view a proposal that the whole of the population who could be proved to comprise, with the inhabitants of the Borough, substantially one community, should be brought within the boundaries of the Borough.\*

1164. The development of residential and of industrial areas had proceeded on different sides of the town, so that there was on one side a considerable residential area, with a high rateable value per head of the population, in which numbers of people who controlled businesses in and near the town lived, and on another a number of industrial undertakings which were controlled from the town, together with the houses of employees in those undertakings.†

The facts showed that there was in the economic sense a close connexion between the three sets of inhabitants, those of the existing Borough, those of the residential area, and those of the industrial area. The argument which the County Borough Council thought that they were entitled to base on these circumstances was that the whole of the population who could be shown to have a common interest with the population of the existing Borough in industrial affairs, should also be associated for the purpose of the provision of local government services and the payment of the cost of such services.‡

1165. It was not suggested that the Council of the County Borough would attempt, or desire, to include within the boundaries every area in which any people engaged in business in the Borough happened to reside. It was a sufficient answer to the argument that proposals of this kind were absurd if carried to their logical conclusion that no County Borough Council had ever proposed a scheme going to such lengths.

¶ Brooks, M. 6 (IV, 875).

\* Howell, M. 6 (VI, 1268).

† Howell, M. 6 (VI, 1268).

‡ Howell, M. 7-9 (VI, 1268), Q. 21,370-1 (VI, 1270), Q. 21,377-88 (VI, 1270).

What they had proposed, and wished to be at liberty to propose again, was to consider the local circumstances, and, having considered them, to apply for a reasonable extension of the boundaries of the County Borough on the ground that the inhabitants of the area within the boundaries so proposed were substantially a part of the community of which the Borough was the centre.†

1166. In this instance, the effect of restoring the balance of the community upon the rateable value per head of the population in the County Borough and in the Administrative County respectively would be to reduce the rateable value per head in the enlarged County Borough, and consequently to increase the rateable value per head in the residue of the Administrative County. The proposal of the County Borough Council must accordingly be regarded, not as an attempt to include areas of high rateable value within the Borough boundaries, but as a scheme of administrative reform under which the Council proposed to include areas both of high and of low rateable value per head of the population, on the ground that unless they were so included the administration of the affected area as a whole could not reach the standard which it ought to reach.||

*As to the Inclusion of Adjacent Urban Areas.*

1167. Another question which in the view of witnesses on behalf of Town Councils was proper to be taken into account in relation to any proposal for the extension of the boundaries of a County Borough was whether it was desirable to include within the Borough boundaries County Districts (or parts of Districts) which were separated from the Borough by a small amount of land not at present developed (either because it was agricultural or because it was unsuitable for building), but were, either wholly or with small exceptions, urban in character, with the consequential inclusion of the intervening undeveloped land.

This question had arisen in relation to the extension of Swansea in 1918, and Mr. Lang-Coath, the Town Clerk, submitted that the test of the desirability of including such areas in the Borough should be whether a close community of interest could be shown to exist between the Borough and the inhabitants of those proposed added areas which were wholly or mainly of an urban character. If any such areas could be shown to be so related to the Borough, although they were not contiguous with it, it might be proper, in his view, on the facts of a given case, to include within the boundaries of the Borough both those

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† Howell, M. 24 (VI, 1275), M. 27 (VI, 1278), Q. 21,526-30 (VI, 1277), Q. 21,550-61 (VI, 1280).

|| Howell, M. 13-14 (VI, 1268), Q. 21,460-9 (VI, 1273), Q. 21,485-92 (VI, 1274).

areas and any undeveloped land (whether capable of development or not) which intervened between those areas and the existing boundaries of the Borough.¶

*As to the Inclusion of Undeveloped Land.*

1168. On the question whether proposals by County Borough Councils for the inclusion within the boundaries of the Borough of land on which little or no development had taken place at the time of the proposals should, as a general principle, be held to be undesirable, the witnesses on behalf of Town Councils submitted that in present circumstances the scope of proposals for the extension of the boundaries of towns was necessarily greater than it had been in the period immediately following the passage of the Act of 1888. The reason was that the course of legislation and the tendency of public opinion since that time had been to impress upon the Local Authorities responsible for the administration of densely populated areas that, even if the population of such an area had not increased since 1888, it was the duty of the Local Authority to find more space for the organization or development of services which the inhabitants of the Borough demanded.\*

1169. In this respect, County Borough Councils were under the necessity of dealing with a problem which, generally speaking, County Councils did not have to encounter. The area of the Administrative County was normally such that it included for practical purposes an unlimited extent of land available to accommodate the increase of population and the development of industry, so that those local government services for which the County Council were responsible could be provided by them without regard to the question of insufficiency of space. But County Borough Councils had to recognize that in modern conditions they were bound to provide their inhabitants with more space and with more air, not only in carrying out housing and town planning schemes, but in providing such amenities as recreation grounds or allotments, in establishing institutions for the treatment of tuberculosis, which could not properly be built within densely populated areas, or in setting aside ground for cemeteries, which ought not to be taken within the existing boundaries of the Borough.†

As regards housing and town planning, the general position of County Borough Councils was that Parliament had imposed new duties upon them which could only be carried out properly if they were allowed to extend the Borough boundaries, and in other

¶ Lang-Coath, M. 6 (VI, 1182), Q. 19,681-2 (VI, 1189), Q. 19,738-40 (VI, 1191), Q. 19,752 (VI, 1191).

\* Parry, M. 20 (VI, 1241).

† Brooks, M. 4 (IV, 875), Q. 14,115-7 (IV, 875); Lang-Coath, M. 7 (VI, 1182), Q. 19,768 (VI, 1192); Parry, Q. 20,841 (VI, 1242).

matters they were subject to a pressure of public opinion which they would not think it proper to resist, even if it were possible for them to adopt such a policy.¶

*As to the Inclusion of Municipal Undertakings.*

1170. The question whether the Council of a County Borough were justified in submitting to the proper authorities that it was desirable to include within the Borough boundaries the whole or part of County Districts in which the Council owned municipal undertakings was discussed with Mr. Howell, Town Clerk of Wolverhampton, who based his views upon the example of the proposal made by his Council for the extension of the Borough boundaries in 1921. He agreed that it would not be proper for the Council of a County Borough to establish any municipal undertaking in one County District rather than another with the deliberate intention of basing an argument for the inclusion of the District in the Borough upon the fact that their undertaking had been located in that District. But he suggested that the proper authorities could ascertain whether a Council had adopted this course, and could discount any argument which the Council put forward as a result.\*

1171. He further explained that in practice the location of municipal undertakings was determined by a number of circumstances relevant to the particular service for which provision had to be made, and not to the present or prospective desire of the County Borough Council to secure an extension of the Borough boundaries.

For example, sewage disposal works could only be established in a place in which, apart from other conditions which might have to be satisfied, first, the lie of the ground was suitable; secondly, there was proper land available for the treatment of sewage; thirdly, there were facilities for carrying away the effluent; and fourthly, there was not too dense a population in the locality. If the site selected as meeting all the requirements lay within the area of another Local Authority, the establishment of the works by the County Borough Council on that site was subject to the approval of the Minister of Health.†

Other conditions appropriate to the services in question applied to the establishment of gas works, or of stations for the generation of electricity, and proposals for the establishment of either kind of undertaking were similarly subject to the approval of central Authorities, and could not be carried out at the option of the County Borough Council alone.‡

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¶ Brooks, M. 5 (IV, 875); Parry, Q. 20,842-5 (VI, 1243), Q. 20,860-1 (VI 1243).

\* Howell, Q. 21,404-8 (VI, 1271).

† Howell, Q. 21,409-14 (VI, 1271).

‡ Howell, Q. 21,415-28 (VI, 1271).

1172. The argument put forward by the County Borough Council of Wolverhampton in 1921 for the inclusion within the Borough boundaries of areas in which works had been established by the Council for purposes of sewage disposal had not been based merely upon the fact of the existence of the works in the County Districts. The argument of the Council had been that since the date at which the works were established outside the Borough (about 1865) the population then contained within the boundaries of the Borough had so increased as to overflow those boundaries and to spread up to and beyond the area in which the works were located. In these circumstances it had become proper, in the opinion of the Council, to take account of the facts that they owned the site of the works, and were responsible for the increased rateable value of the County District attributable to the existence of the works, in putting forward a proposal for the restoration of the balance of what was in fact a single community by the inclusion of the proposed added areas within the boundaries of the Borough. Until the population which had overflowed from the Borough reached, or came near, the site of municipal undertakings, the Council had not considered that the moment had come to ask for the inclusion in the Borough boundaries of the areas in which the undertakings were located. Their argument was that they were entitled to include these areas, not solely because the works within them were their property, but because in the process of time the conditions in the County Districts surrounding the Borough had altered, by reason of the dispersal of population beyond the existing boundaries of the Borough, in the direction of the districts in which the works stood.\*

*As to the Inclusion of Industrial Undertakings Connected with the Borough.*

1173. Mr. Lang-Coath, Town Clerk of Swansea, on behalf of Town Councils, drew attention to another consideration put forward by the County Borough Council in support of the extension of the boundaries of the Borough carried out in 1918, and submitted that where such facts were established they contributed to show that the proposal for extension was desirable.

The Council's argument had been that industrial undertakings in proposed added areas owed their existence to the enterprise of inhabitants of the Borough, and were kept in operation by employees, many of whom lived in the Borough, and, in common with the other inhabitants of the proposed added areas, derived advantage from services provided by the Town Council. It was suggested that while the weight to be attached to this argument again depended upon the facts relevant to particular proposals, it might be proper for a County Borough Council to propose to

\* Howell, Q. 21,429 (VI, 1272), Q. 21,433-52 (VI, 1272), M. 28 (VI, 1278), Q. 21,585-6 (VI, 1283).

include within the Borough boundaries the whole of an area extending to a considerable distance from the existing Borough, if they considered that they could satisfy Parliament that industrial enterprise in that area was dependent, in the sense above described, upon inhabitants of the Borough.†

*As to Municipal Services.*

1174. It was submitted in evidence on behalf of Town Councils that the facts in regard to the supply of electricity, gas, transport services, or water, by a County Borough Council to the inhabitants of a County District were proper to be taken into account in relation to any proposal by the Council of the County Borough to include within the Borough boundaries the whole or part of any District so supplied. They did not accept the argument of witnesses on behalf of County Councils that the supply of such services was a matter of bargain and sale between one Local Authority and another, and that it was an accident whether such services were obtained from a County Borough Council or from a private undertaking.‡

In their view this argument was unsound, because the supply of the services in question by a Local Authority was a monopoly right, conferred by Parliament upon the Authority, which excluded competition within the limits of the statutory area of supply. The inhabitants of a particular locality who wished to obtain a supply were accordingly not in the position of a free buyer in the open market.§

1175. Secondly, it was said on behalf of Town Councils that the inhabitants of a proposed added area might be unable to obtain from the Local Authority having general jurisdiction in the area any supply of the services in question. Such services should at the present time be regarded as necessities of life, and in fact one of the strongest reasons in favour of the extension of Borough boundaries was the wish of the inhabitants of proposed added areas to have the benefit of the same services as were available to the inhabitants within the existing Borough boundaries.\*

Alternatively, it might be the case that the Local Authority in a proposed added area were supplying all or some of these services at a cost which was higher than the cost of similar services within the Borough, and that any improvement of the services in the proposed added area would require a large capital expenditure. In these circumstances, again, it was the fact that the inhabitants of a proposed added area often wished the area

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† Lang-Coath, M. 7 (VI, 1182), Q. 19,775-8 (VI, 1192), Q. 19,994-20,001 (VI, 1203).

‡ Harbottle, M. 64 (VI, 1317).

§ Harbottle, M. 64 (VI, 1317).

\* Harbottle, M. 64 (VI, 1317).



to be brought within the Borough boundaries in order to secure a cheaper supply and a more efficient organization and development of the services in question.†

1176. Thirdly, the inhabitants of a County District could not look to the Council of the County in which the District was situated for assistance in obtaining services of this character. County Councils had no power to supply electricity, gas, or water, or to provide tramways or a service of omnibuses. If, therefore, the inhabitants of a County District wished to obtain the services by means other than the inclusion of the District within the boundaries of a County Borough, the Council of the District must seek powers to do so on their own behalf and at the sole cost of the ratepayers of the District. If such powers were obtained, the expenses of providing such services on a small scale in a County District were higher in proportion than the expenses of the larger undertakings of County Borough Councils, and such expenses could not be met beyond a certain point by raising the price of the commodities supplied. Any part of the expenses which was not covered by the income of the undertaking in question therefore became a charge upon the ratepayers of the District, who had to contribute through the rates towards meeting the deficiency. These circumstances might well influence the wishes of the inhabitants of a County District situated near a well equipped County Borough in favour of the inclusion of the District within the Borough boundaries, and the wish to benefit by association with the Council of the County Borough was a matter relevant to the question whether the extension of the Borough boundaries was desirable if the County Borough Council proposed it.‡

1177. On the question whether the supply of services of this character was a matter of bargain and sale, Sir David Brooks said that in cases in which a service was supplied by a County Borough Council to the inhabitants of a County District under agreement, the price paid by those inhabitants did not necessarily cover the full value of the service, but was the price which the County Borough Council were able to charge under the statutory provisions regulating the terms of supply, or as a result of negotiation with the Local Authority of the County District.§

1178. Mr. Howell, Town Clerk of Wolverhampton, added that the accounts of undertakings administered by County Borough Councils who supplied services to the inhabitants of County Districts might show, as was the fact in relation to Wolverhampton, that the cost of that part of the supply of water, or lighting, which was provided for the benefit of the inhabitants

† Harbottle, M. 64 (VI, 1317).

‡ Harbottle, M. 68 (VI, 1317).

§ Brooks, Q. 14,182-3 (IV, 879), Q. 14,190-1 (IV, 879), Q. 14,196-8 (IV, 879), Q. 14,950 (IV, 917).

of the County District, threw a charge on the undertaking as a whole which had to be borne by the inhabitants of the Borough, who were wholly responsible for the financial stability of the undertaking. The same position was found in relation to the Wolverhampton tramway service, the accounts of which showed that on many of the routes which ran both within and outside the Borough there was a profit on that part of the route which was within the Borough boundaries, and a loss on that part which was outside them.\*

As regards water supply, the liability arising from the provision of the service to the inhabitants of County Districts might be, as it was in Wolverhampton, a serious liability for the inhabitants of the Borough, because the Town Council might be precluded by statute, as in Wolverhampton they were, from charging for the supply of water an amount which produced any profit on the undertaking as a whole. If, therefore, water were provided for the inhabitants of County Districts, in which the population was much less dense and accordingly more expensive to supply than it was within the existing Borough boundaries, at the same price as was charged within those boundaries, the supply to County Districts, taken alone, must be given at a loss which had to be made good by inhabitants of the Borough †

1179. The witnesses on behalf of Town Councils added that whatever the position might be in regard to services supplied by a County Borough Council to the inhabitants of County Districts at a certain price, there were other services normally provided in a County Borough from which the inhabitants of surrounding Districts derived advantage, but for which they were not asked to pay, such as free libraries, art galleries, parks, open spaces, and recreation grounds, and in certain cases educational establishments in which students not resident in the Borough were received without any agreement for payment between the County Borough Council and the Local Authority responsible for the form of education in question within the Administrative County.‡

*As to the Inclusion of Areas within the Same Watershed.*

1180. Witnesses on behalf of Town Councils further submitted that one of the considerations which the Council of a County Borough ought to be at liberty to urge in support of a proposal for the extension of the boundaries of the Borough was the desirability of including within the Borough boundaries the whole of the area which lay within the same watershed as the existing Borough area.

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\* Howell, M. 23 (VI, 1275).

† Howell, M. 23 (VI, 1275), M. 29 (VI, 1279), M. 34 (VI, 1282), Q. 21,581-6 (VI, 1283).

‡ Brooks, Q. 14,192-5 (IV, 879); Parry, M. 29 (VI, 1244); Spurley Hey, Q. 23,782-3 (VII, 1400), Q. 23,824-5 (VII, 1402).

1181. The late Sir Robert Fox explained that the proposals made by the Leeds City Council in 1920 for the inclusion of an area of 32,000 acres within the City boundaries had been made after taking account, among other things, of the probable development of population and industry within the limits of the watershed. The City Council had not proposed to include in the City all areas within the watershed, but they had this boundary in mind as the natural limit of their jurisdiction, and, generally speaking, they had not made any proposal to include areas outside that line.\* The extent of the proposal, subject to this limit, had been regulated by the City Council's anticipation of the growth of the City within a period of twenty-five to thirty years from the date of the proposal, and the proposal had been intended to settle the boundaries of the City for that period, in the sense of including the whole of the area which, in the opinion of the City Council, would, within that period, inevitably become in fact part of Leeds.†

1182. An example of a proposal for extension largely based upon similar considerations which was held by Parliament to be desirable was the proposal of the Swansea County Borough Council to which effect was given in 1918. Mr. Lang-Coath, the Town Clerk, informed us that the whole of the areas then added to the Borough, with two minor exceptions, were within the same watershed as the Borough, and that in determining the scope of their proposal the Council had attached much importance to the ascertainment of the point at which they could secure the best outfall for the sewage of the existing Borough and of surrounding County Districts. When that point had been ascertained, it formed the general basis of the proposal for the addition of areas to the Borough, and the effect of the extension approved by Parliament was that the whole of the area suitable to be drained as one had, with two exceptions, been taken into the Borough, and that the greater part of any area which could be drained by one system of sewerage having its centre in the Borough was now included in the Borough.‡

At the same time, Mr. Lang-Coath made it clear that, in advising the Council as to any proposal for extension, he would take other facts than the facts relating to sewage disposal into consideration, and that the relative importance of this and other questions would depend upon the whole circumstances prevailing in the Borough and in surrounding County Districts at the time.§

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\* Fox, Q. 8006-12 (III, 528).

† Fox, Q. 8020-6 (III, 528).

‡ Lang-Coath, Q. 19,741 (VI, 1191), Q. 19,756-65 (VI, 1191), Q. 19,772-4 (VI, 1192).

§ Lang-Coath, Q. 19,783-90 (VI, 1192).

## PART III.—CONCLUSIONS AND RECOMMENDATIONS OF THE COMMISSIONERS.

### INTRODUCTORY.

1183. The evidence taken before us on the matters dealt with in this Report has been fully summarized, and we have attentively considered every argument submitted to us by witnesses.

We do not think it necessary, before stating the conclusions and recommendations at which we have arrived, to discuss in detail the arguments put forward in evidence, or to set out at length the reasons for which we have found ourselves convinced or unconvinced by each of these arguments.

1184. From hearing the evidence, and from our subsequent deliberations upon it, we formed the view that what was required of us was not so much a mass of detailed considerations and a lengthy system of detailed recommendations, as a clear exposition of what, in our judgment, was the nature of the problem referred to us, what were the principal difficulties now experienced in relation to the constitution and extension of County Boroughs, and what were the most simple and practicable means of removing or mitigating these difficulties which we could suggest.

#### The Nature of the Problem before the Commission.

1185. On the first question, what is the nature of the problem referred to us, we have borne in mind throughout that the difficulties arising in relation to the constitution and extension of County Boroughs are not made by the Local Authorities concerned, or permitted to arise by any neglect of duty on the part of those Local Authorities.

The difficulties are due to the growth of the population of the country and to changes in the distribution of that population which follow upon the movements of industry, or upon other circumstances, over which Local Authorities have little or no control; though some proposals may arise from other causes than those stated, such as the desire on the part of a Local Authority to increase the size and population of the area under their jurisdiction, and so increase its importance.

1186 Local government must be conducted by Authorities who have jurisdiction within defined areas, and each of the important settlements of local government areas which Parliament has made has necessarily been made in the light of the conditions of population and industry which existed at the time.

It has, however, been recognized by Parliament, even at the moment when each of these settlements was made, that the conditions would alter, and that provision was required for enabling the boundaries and the status of Local Authorities to be varied when the conditions altered to such an extent that changes in the system of local government had become desirable.

1187. We have set out in a preceding Chapter of this Report the principal statutory provisions relating to alterations of the area and status of Local Authorities. These provisions show that Parliament has established a system of local government which is subject to the process of growth and change, and has contemplated that both under the Local Government Act, 1888, by which County Councils and County Borough Councils were constituted, and under subsequent legislation, the position of particular Local Authorities would be subject to that process.

1188. The problem before the Commission is the method by which the organization of local government is to be from time to time adapted to changing conditions of population and industry. For many years past there has been a gradual growth of urban at the expense of rural population, and the consequence has been a great increase in the population of towns and the occupation by them of areas formerly rural. It is possible that in the future this movement will become slower, or even in some cases be reversed, but the problem will remain in its essence the same.

1189. In the adaptation of local government to altered conditions, boundaries may have to be changed, and existing organizations broken up or superseded. There will be loss as well as gain, and in every case, one must be balanced against the other, the governing consideration being to secure the welfare of the populations affected, and the best and most efficient method of providing for their local government. While continuity, tradition, well organized administration, and so on, must not be lightly disturbed, they must be judged by their results in health, education and other local government services.

Whilst in the subsequent paragraphs of this Report we refer to and make recommendations upon various matters of detail, we desire to make it clear that the whole of these recommendations are to be read as subject to the due observance of this governing consideration.

### **CHAPTER XIII. — CONCLUSIONS AND RECOMMENDATIONS AS TO THE METHODS OF DEALING WITH PROPOSALS FOR THE CONSTITUTION OR EXTENSION OF COUNTY BOROUGHES.**

#### **The Principal Difficulties in relation to the Methods by which Proposals for the Constitution or Extension of County Boroughs are dealt with.**

1190. Since the problem before us was in our judgment the problem of adapting the organization of local government to the process of growth and change which is continually taking place in population and in industry, we were bound to assume that provision should continue to be made by law for the process of adaptation to be carried out, and that the first question which

we ought to consider was whether the methods by which proposals for the constitution or extension of County Boroughs are dealt with under the existing law and procedure were satisfactory, or required alteration.

1191. It was evident that Local Authorities do not find the existing Provisional Order procedure under section 54 of the Local Government Act, 1888, entirely satisfactory, and that many Local Authorities look upon it with disfavour. Whatever may be the reasons for this state of mind, there is no doubt that it has given rise to dissatisfaction with decisions given under Provisional Order procedure, and we agree with those witnesses who have represented to us that the essential object at which we should aim is to restore confidence among Local Authorities generally in the methods by which proposals for the constitution or extension of County Boroughs are dealt with.

We have therefore dealt first with this subject in setting out our conclusions and recommendations, and we have addressed our minds to possible remedies for the existing lack of confidence by considering the matter in the following order.

1192. It is open to a Town Council under the existing law and procedure to make a proposal for the constitution or the extension of a County Borough either by representing that a Provisional Order should be made to give effect to their proposal, or by promoting a Private Bill.

It appears to us that the dissatisfaction which is felt at the operation of the existing law and procedure arises solely in relation to procedure by Provisional Order. We have heard no criticism in principle of the decisions of Parliament on Private Bills for these purposes directly submitted to it by Local Authorities; and the essence of the criticisms levelled against the Provisional Order procedure seems to be that, before a proposal is submitted to Parliament, it is subjected to a process of investigation, and may receive a measure of approval, which in practice, though not in constitutional theory, gives an advantage to the promoters which their opponents cannot counterbalance in Parliament.

1193. This is a criticism which we feel bound, if possible, to meet, and with this object we have considered to what extent procedure by Private Bill could be substituted for the existing Provisional Order procedure without detriment to the good government of the areas of any of the Local Authorities concerned.

**Conclusions and Recommendations as to the Methods by which Proposals for the Constitution of County Boroughs should be dealt with.**

1194. Proposals for the constitution of County Boroughs require separate consideration from proposals for the extension of County

Boroughs, owing to the degree of opposition which they generally attract.

The application of the Provisional Order procedure to these proposals is open not only to the objections which we have already indicated, but also to the objection that it involves the expense of a Local Inquiry which does not have the result of removing opposition in Parliament, and therefore leaves the expense of Parliamentary proceedings where it would be if the proposal had been made in the first instance by Private Bill.

1195. We are of opinion that in these circumstances it is not necessary to leave Town Councils with their existing option of making a proposal for the constitution of a County Borough either by application for a Provisional Order or by promoting a Private Bill; and we recommend that the existing law should be altered so as to provide that all proposals for the constitution of County Boroughs should be made by Private Bill.

**Conclusions and Recommendations as to the Methods by which  
Proposals for the Extension of County Boroughs should  
be dealt with.**

1196. The facts in regard to past proposals for the extension of County Boroughs differ from those in regard to proposals for the constitution of County Boroughs. Some proposals for the extension of County Boroughs have not been opposed by other Local Authorities at any stage, and opposition to a number of other proposals has not persisted beyond the stage at which a Local Inquiry was held.

In so far as opposition to these proposals does not arise, or is removed before the Parliamentary stage, there are, in our opinion, substantial reasons for preserving the existing option of County Borough Councils to make proposals for extension under the Provisional Order procedure.

1197. At the same time, the lack of confidence in this procedure is felt as much in regard to its application to proposals for the extension, as in regard to its application to proposals for the constitution, of County Boroughs. We think that it must be recognized as being more important that a procedure should command the confidence of those who are affected by it than that it should in certain cases be cheap and convenient. We have, therefore, sought for a solution of the present difficulties in a procedure under which it should be the rule that proposals for the extension of County Boroughs would be made by Private Bill, while in any case in which the Local Authorities concerned, other than the County Borough Council, do not object to the employment of Provisional Order procedure, it should be open to the County Borough Council, if they so desire, to resort to that procedure instead of promoting a Private Bill.

1198. Further, we have borne in mind that the County Borough Council may not be aware whether opposition will in fact arise

to their proposal or not, and that it would not, therefore, be fair to require them to go through the whole of the preliminary stages of Private Bill procedure afresh if they propose, in the first instance, to proceed by application for a Provisional Order, and are then to be prevented from continuing under that procedure owing to the opposition which arises to their proposal.

1199. We accordingly make the following recommendations :—

(a) Proposals for the extension of County Boroughs should be made by Private Bill :

Provided that if a County Borough Council give notice to all other Local Authorities concerned that they intend to proceed by application for a Provisional Order, and if within four weeks thereafter none of such Authorities gives notice of objection to that procedure, the application may be dealt with under that procedure.

(b) A County Borough Council who give notice as afore-said should transmit to the Minister of Health, with their application, and to the other Local Authorities concerned, with their notice, a draft of the Order which they desire to be made to give effect to their proposal.

(c) If notice is given by a Local Authority in accordance with the foregoing provisions objecting to the application proceeding by Provisional Order, and such notice is not withdrawn, the application for the Order should not be proceeded with, and any notices published or served, and any deposits made, for the Provisional Order, should, subject to Standing Orders of Parliament, be held to have been published and served and made for a Private Bill.\*

1200. Whilst the effect of the foregoing recommendations will be to abolish the Provisional Order procedure in the case of proposals for the constitution of County Boroughs, and in many cases in which a proposal for the extension of a County Borough is opposed, we would add that we make the recommendations in order to secure complete confidence on the part of the Local Authorities concerned, whether they are promoters or opponents. It may be that in many cases all parties concerned will concur in the adoption of the Provisional Order procedure, and it is largely for that reason that we recommend its retention, so that it may be made use of when it is generally acceptable.

#### FORMULATION OF OBJECTIONS TO PROPOSALS FOR THE EXTENSION OF COUNTY BOROUGHES.

1201. We recognize that, if effect is given to the foregoing recommendations, it will be open to any Local Authority concerned, by giving notice of objection to procedure by application

\* We call attention to the analogous provisions of section 2(4) of the Private Legislation Procedure (Scotland) Act, 1899, and section 29(3) of the Ministry of Transport Act, 1919, under which action taken by applicants who ask in the first instance for a Provisional Order, or Order, to be made, may be treated as having been taken in compliance with Standing Orders if the appli-



for a Provisional Order, to compel a County Borough Council to make their proposal, if they desire to proceed with it, by promoting a Private Bill.

1202. The result will be that if opposition to the proposal is maintained under the Private Bill procedure, the Local Authorities who oppose the Bill in Parliament will have to call upon their ratepayers to meet the necessary expense of opposition.

The cost to a County District of opposition to a Bill in Parliament may be greater than the cost of opposition at a Local Inquiry under the Provisional Order procedure, and it is possible that in certain cases the cost might be of such an amount as to compel the Local Authority of the County District to abandon their opposition.

1203. It will be admitted that it is desirable that a Local Authority who express the wishes of the inhabitants of their area by opposing a proposal should not be prevented from proceeding with their opposition on the ground of expense, and we have, therefore, carefully considered whether we could suggest any means of safeguarding so far as possible the interests in this respect of ratepayers in County Districts.

We suggest for this purpose that it should be the settled practice of any County Council concerned with a proposal for the extension of the boundaries of a County Borough made under Provisional Order procedure to confer with the Local Authorities of any County Districts in the Administrative County also concerned before giving their notice of objection to that procedure.

### **Consequential Recommendations as to Proposals for the Constitution or Extension of County Boroughs dealt with by Private Bill.**

#### **AS TO THE CONSENT OF THE ELECTORS UNDER THE BOROUGH FUNDS ACTS.**

1204. Under the existing law, while it is open to Town Councils to make proposals for the constitution or extension of County Boroughs either by Private Bill or by application for a Provisional Order, a Private Bill cannot, under section 10 of the Borough Funds Act, 1872, be promoted for the sole purpose of constituting or extending a County Borough, because either of these objects can be attained by a Provisional Order Confirmation Bill.

1205. In order to enable proposals for the extension of County Boroughs to be dealt with in a convenient manner, we think that it should be open to a County Borough Council to promote a Private Bill for the sole purpose of extending the County Borough, and we recommend that section 10 of the Borough Funds Act, 1872, should be so amended as to enable a Private Bill to be promoted for this purpose.

1206. A further question then arises in regard to the application of the provisions of the Borough Funds Acts to Bills providing solely for the constitution or extension of County Boroughs.

Under those Acts the following steps have to be taken by a Town Council when promoting a Bill in Parliament :—

(a) Ten days' notice must be advertised of a special meeting of the Council to consider the proposals ;

(b) At the special meeting the resolution to promote the Bill must be passed by an absolute majority of the whole number of the Council ;

(c) The resolution must be advertised twice ;

(d) A public meeting of electors must be held to pass a resolution consenting to the promotion of the Bill, and if the decision of the meeting is challenged, a poll must be taken of the whole of the electors, following generally the procedure for the election of councillors ;

(e) A further special meeting of the Council must be held at which a confirming resolution is passed by an absolute majority of the whole number.

A Town Council making application for a Provisional Order have greater freedom and do not have to adopt this elaborate and costly procedure.

1207. If the existing law is amended in accordance with the recommendations which we have already made, Bills providing solely for the constitution or extension of County Boroughs will, unless exempted by a further amendment of the law, become subject to those provisions of the Borough Funds Acts which relate to the consent of the electors, that is, the provisions under which a public meeting must be held, and a poll may be taken, on the question whether the Bill should be promoted.

1208. The provisions of the Acts relating to the consent of the electors should, in our opinion, be considered as distinct from the provisions of the Acts which secure that notice of a proposal to promote a Bill is circulated by the Local Authority in the area, and that the sanction of special meetings of the Local Authority to the promotion of the Bill is obtained. We think that the latter requirements are desirable and should be retained. But we further think that they are sufficient to prevent the promotion of a Bill, at any rate for the constitution or extension of a County Borough, which does not command the assent of the electors through their representatives on the Town Council.

1209. The evidence which we have heard on the question of applying the provisions of the Acts relating to the consent of the electors to Bills providing solely for the constitution or extension of County Boroughs, supposing that it were made lawful to promote such Bills, is to the effect that in large towns, such as are here alone in question, the provision for a public meeting of the electors cannot be carried into effect properly, and is open to

abuse; and that the provision for taking a poll seems from experience to be on the whole ineffective, and to have no advantage over a decision of the Town Council themselves as an indication of the views of the electors. Moreover, in some cases it is a very costly proceeding.

1210. We accordingly recommend that the existing law should be so amended as to provide that when a Bill is promoted containing proposals for the constitution or extension of a County Borough, and provisions incidental thereto or consequential thereon, the Bill, so far as it relates to those proposals and provisions, shall be exempt from the requirements of the Borough Funds Acts which relate to the consent of the electors.

AS TO REPORTS BY THE MINISTER OF HEALTH ON PROVISIONS  
IN PRIVATE BILLS FOR THE CONSTITUTION OR EXTENSION  
OF COUNTY BOROUGHES.

1211. On the assumption that in future all proposals for the constitution, and a number of proposals for the extension, of County Boroughs will be dealt with by Private Bill, we have had to consider whether these alterations in the law and procedure should involve any alteration in the practice under which the Minister of Health makes reports to Parliament upon provisions in Private Bills which concern his Department.

1212. It is clear that the duty of the Minister to make such reports will continue in application to Bills providing for the constitution or extension of County Boroughs, though the number of such Bills would, on the foregoing assumption, be increased. The scope and character of these reports must, we think, remain to be determined by the experience of Parliament and of the Minister in dealing with proposals; and we have not, therefore, felt it desirable to make any recommendation in favour of the alteration of the existing practice under which the particulars required by the Minister for the purpose of his reports are obtained by such means as he thinks fit.

AS TO THE EXCHANGE OF INFORMATION BETWEEN LOCAL  
AUTHORITIES CONCERNED WITH PROPOSALS FOR  
EXTENSION.

1213. Our attention has been drawn to the fact that the particulars of a proposal for extension made by Private Bill which a County Borough Council are required, by the Standing Orders of Parliament, to furnish, may be insufficient to enable other Local Authorities concerned to determine their attitude towards the proposal.

1214. We think that the exchange of all necessary information between the Local Authorities concerned at the lowest possible cost to their ratepayers is the proper method of dealing with any

difficulty which might arise under this head, and we accordingly recommend

(a) That a County Borough Council who promote a Bill providing for the extension of the County Borough should, if requested by any Local Authority (including any County Council) concerned with the proposal, furnish

(i) the particulars specified under the following heads in the Provisional Order Instructions C (A) of Session 1922, issued by the Minister of Health :

<i>Head of Instructions.</i>	<i>Subject.</i>
I	Area and Population ;
II	Financial Position ;
III	Burial Matters ;
IV	Education ;
V	Combinations, Joint Boards and Port Sanitary Authorities ;
VI	Agreements ;
VII	Adoptive Acts ;
IX	Previous Proposals for Extension ;

and

(ii) particulars of the following matters which are mentioned in the Provisional Order Instructions C (A) of Session 1922 under head X (Appendix) :

Local Acts and Provisional Order Confirmation Acts in force in the Borough ;

Borough Treasurer's Accounts ;

Orders conferring powers upon the Council under section 33 of the Local Government Act, 1894 (which relates to the application of certain provisions of the Act to Urban Districts) ;

Orders conferring powers upon the Council under section 2 (2) of the Public Health Acts Amendment Act, 1907 (which relates to the application of Parts or sections of the Act to Sanitary Districts) ;

(b) That the Local Authority of any proposed added area who present a petition against the Bill promoted by the County Borough Council should, if requested by the County Borough Council, furnish the particulars specified under head VIII of the Provisional Order Instructions C (A) of Session 1922, that is

(i) The particulars specified under heads I to VII of the Instructions ; and

(ii) The further particulars as to highway administration and Adoptive Acts in rural parishes specified in sub-heads (a) and (b) of head VIII of the Instructions ;

(c) That the foregoing particulars need not necessarily be furnished in printed form.

**Consequential Recommendations as to Proposals for the Extension of County Boroughs dealt with by Provisional Order Procedure.**

1215. In the evidence submitted to us various matters arising in relation to proposals dealt with by Provisional Order procedure were treated at length by the witnesses. We believe it to be correct to say that this evidence was given on the assumption (which the witnesses were bound to make) that we might recommend the continuance of the application of the Provisional Order procedure to all proposals either for the constitution or for the extension of County Boroughs.

1216. If it is borne in mind that our recommendations, if adopted, will have the effect of abolishing Provisional Order procedure in application to proposals for the constitution of County Boroughs, and of making the consent of the Local Authorities concerned, other than the County Borough Council, the condition of its application to proposals for the extension of County Boroughs, it becomes evident that the alteration in detail of the Provisional Order procedure, so far as it continues to apply, will be a matter of less importance than it appears to be on the face of the evidence.

There are, however, certain criticisms of the working of the Provisional Order procedure with which we have been impressed, and certain particulars in which we think that the procedure, so far as it is retained, should in future be modified.

**THE CONDUCT OF LOCAL INQUIRIES.**

1217. In the first place, we think that the practice, begun in 1921, of arranging as a normal method of procedure for Engineering Inspectors of the Ministry of Health to make preliminary visits and investigations in the locality, before any statutory Local Inquiry is held, and without due notice being given to all Local Authorities concerned, should be discontinued.

1218. In the second place, we think that there is room for more precision and publicity in the arrangements relating to the conduct of Local Inquiries, and we recommend that these Inquiries should in future be regulated by the Minister of Health in the following manner :—

*(a) As to Obtaining Information from Local Authorities.*

1219 If, on receiving a memorial, the Minister of Health is of opinion that any statistical or other information not contained in the memorial will be required by the person or persons by whom the Local Inquiry will be held, he should issue the necessary requests for such information to any Local Authority concerned, and on the receipt of such information should make it available as soon as possible to all other Local Authorities concerned.

*(b) As to Appointment of a Person or Persons to Hold the Local Inquiry.*

1220. The Minister of Health should more frequently exercise his power to appoint a person or persons of varied experience (not necessarily an Engineering Inspector) to hold the Local Inquiry.

*(c) As to Issue of Notices of the Local Inquiry.*

1221. The Minister of Health should issue to all the Local Authorities concerned, and to any other person or body making application to him, notices of the date on which the Local Inquiry will be held.

Those notices should, as a rule, be issued at least three weeks in advance of the date of the Local Inquiry.

*(d) As to Settlement of Programme of Inspection.*

1222. The Minister of Health should fix, and issue notices in like manner of, a place and time in the locality at which the person or persons by whom the Local Inquiry will be held will confer with representatives of all parties concerned in order to arrange to visit and personally to inspect such parts of the areas affected as may be desirable.

*(e) As to Completion of Information Required by the Minister of Health.*

1223. If at the date of the conference any necessary requests made to any Local Authority by the Minister of Health on receiving the memorial for statistical or other information have not been complied with, the person or persons by whom the Local Inquiry will be held should at the conference request the Local Authority to supply such information in a reasonable time before the Local Inquiry in a form available to the other Local Authorities concerned.

*(f) As to Inspection of Areas.*

1224. The person or persons by whom the Local Inquiry will be held should arrange, if possible, that he or they should be accompanied by

- (i) Representatives of the Town Council making the proposal, and
  - (ii) Representatives of any County Council concerned, throughout the whole duration of such visit and inspection; and by
  - (iii) Representatives of the other Local Authorities concerned who desire to attend, and
  - (iv) Representatives of any other parties concerned,
- so far as the interest of such Local Authorities and parties extends.

*(g) As to Procedure at the Local Inquiry.*

1225. The person or persons by whom the Local Inquiry is held should pay special attention to the desirability of excluding irrelevant evidence at the Inquiry.

THE EMPLOYMENT OF COUNSEL AND EXPERT WITNESSES  
AT LOCAL INQUIRIES.

1226. In the third place, we have given consideration to the question whether we were in a position to make any further recommendations which would have the effect of reducing the cost to the ratepayers of the employment by Local Authorities of counsel and expert witnesses at Local Inquiries.

It must be remembered on this point that the result of the application of the general system of procedure which we recommend to proposals for the extension of County Boroughs will probably be that the more contentious proposals will be submitted to Parliament by Private Bill, and will, therefore, no longer form the subject of Local Inquiries under section 54 of the Act of 1888.

1227. The proposals which remain to be dealt with by Provisional Order procedure will probably be the less contentious proposals, and we anticipate that the Local Authorities concerned with these proposals will be able fully to safeguard the interests of the inhabitants of their areas, with due regard to economy, without employing at Local Inquiries any such numbers of counsel or expert witnesses as are considered requisite when highly contentious proposals are dealt with. We do not think, however, that we should be justified in recommending any limitation by statute on the employment of counsel or expert witnesses by Local Authorities to express their view at Local Inquiries.

CHAPTER XIV. — CONCLUSIONS AND RECOMMENDATIONS RELATING GENERALLY TO THE EXISTING LAW AND PROCEDURE GOVERNING THE CONSTITUTION OR EXTENSION OF COUNTY BOROUGHES.

SECTION 1.—CONCLUSIONS AND RECOMMENDATIONS RELATING BOTH TO THE CONSTITUTION AND TO THE EXTENSION OF COUNTY BOROUGHES.

General.

1228 The conclusions and recommendations stated in the preceding Chapter as to the methods by which proposals for the constitution or extension of County Boroughs should be dealt

with will have made it clear that in our opinion the dissatisfaction of Local Authorities with the existing Provisional Order procedure under section 54 of the Local Government Act, 1888, is perhaps the most important matter with which we have felt it our duty to deal in this Report.

If, as we hope, the recommendations which we have made in regard to the procedure under which proposals should be dealt with in future are found to remove, or to mitigate, the dissatisfaction of Local Authorities with the existing system, the questions with which we have to deal in this Chapter will be greatly simplified.

### **The Test which should be Applied to Proposals in Future.**

1229. We heard evidence from a number of witnesses on the question whether the word "desirable" in section 54 of the Act of 1888 should in future be retained as the test of proposals for the constitution or extension of County Boroughs.

1230. So far as proposals for the constitution of County Boroughs are concerned, the recommendation made in the preceding Chapter, that all proposals for this purpose should, in future, be dealt with by Private Bill, makes it unnecessary for us to deal further with the question. Parliament will decide, as Private Bills for this purpose come before it, upon the nature of the test which it will apply to each proposal, and it would not be proper for us to attempt to lay down in advance any set form of test which we might think it natural that Parliament should adopt.

We may, however, say that, so far as we can judge, it has been the invariable practice of Parliament in the past to apply to these proposals the kind of test which differs little in its nature from that of section 54 of the Act of 1888; that is to say, a Committee of Parliament to whom the proposals have been submitted have required to be satisfied that, having regard to all the circumstances, it is "expedient" to give effect to the proposals.

1231. As regards proposals for the extension of County Boroughs, we have to remember in dealing with the present question that, if our recommendations on the subject of the procedure are adopted, proposals will only be dealt with under Provisional Order procedure with the consent of all the Local Authorities concerned, and otherwise will have to be submitted to Parliament in Private Bills.

It is, therefore, probable that a majority of such proposals, or at least the more contentious of them, will not be dealt with under section 54 of the Act of 1888.

1232. But the question of the test which should apply to proposals still dealt with under that section remains an important one.



Our conclusion in regard to it is that it would be no less unwise to attempt to define the nature of the test further than was thought right by Parliament in 1888 than it would be to attempt to tie the hands of Parliament in dealing with proposals put forward by Private Bill.

1233. We therefore recommend that the word "desirable" should be retained as the statutory test of the merits of proposals for the extension of County Boroughs dealt with under section 54 of the Act of 1888.

#### THE INTERPRETATION OF THE WORD "DESIRABLE."

1234. The terms of section 54 of the Act are clearly intended to leave the proper authorities with the widest possible discretion to enter into all relevant matters for the purpose of determining whether it is desirable that effect should be given to a particular proposal for the extension of a County Borough.

1235. The process of determining whether the word "desirable" properly applies to a particular proposal cannot be reduced to a rigid form, but it was in our opinion well expressed by Mr. Asquith (now Lord Oxford and Asquith), when Prime Minister, as meaning that a proposal must be desirable in the interests of all persons concerned, and that if the interests of various Local Authorities in the same proposal were divergent, the question whether the proposal was desirable must be settled upon an equitable and judicial balance as between all the divergent interests; and we think that it has been sufficiently described in its practical operation in the following question and answer which, though they relate in terms to the constitution of a County Borough, appear to us to apply equally to the extension of a County Borough\*:

"There is another view which is possible, . . . and I would like to know what you think about it. What would you think upon this; that a Borough might be constituted a County Borough if, after taking into consideration all the circumstances and weighing the advantages on the one hand and the disadvantages on the other hand, it is shown to be desirable, not necessarily in the interests of both parties, but the advantages of constituting it outweighed the disadvantages on the other side?—(*Mr. Dent*): I agree, of course, with the view that there must be a compromise. I think it is obvious that the interests of all parties cannot be the same, therefore there must be a balance, and advantages must be weighed on the one hand against advantages on the other, and the same with disadvantages. It must always be in the long run something in the nature of balancing the harm you do to one person against the good you do to another."

#### Other Considerations to be Taken into Account in dealing with Proposals.

1236. Certain further suggestions have been made to us in evidence as regards other considerations which might be taken

\* County Councils Association (*Dent*), Q. 6512 (III, 443).

into account both by Parliament and by the Minister of Health.

These suggestions related, first, to the question whether Parliament and the Minister ought to take account, in dealing with a particular proposal, of the possible result of giving effect to that proposal in causing further proposals to be made; and secondly, to the question whether it would be right, either generally or in particular circumstances, to require a fixed interval of time between the date when a Town Council made a proposal and the date when they should be permitted to make another proposal

#### THE QUESTION OF THE CUMULATIVE EFFECT OF PROPOSALS.

1237. We have carefully considered this question for the purpose of arriving at a recommendation which should on the one hand protect Parliament and the Minister against being invited to travel beyond the limits of the matters properly relevant to the proposal before them, into a region in which they would be considering what might happen in the future, though it could not be predicted with certainty, or disposed of in any conclusive way; and should, on the other hand, prevent a Local Authority from being debarred on any point of order or procedure from bringing to the notice of the proper authorities matters of fact which might, on a narrow construction, be held to be irrelevant to the proposal immediately under consideration.

1238. We have come to the conclusion that both Parliament and the Minister should take into account all the facts relevant to the proposal, and should afford the parties a full opportunity of expressing their views in relation to such facts.

In our opinion, the facts relevant to a particular proposal which should be taken into account by the proper authorities include facts which tend to show that it is reasonable to anticipate the submission of further proposals by Town Councils for the constitution or extension of County Boroughs which will affect any Administrative Counties concerned with the particular proposal under consideration.

#### THE QUESTION OF FIXING INTERVALS OF TIME BETWEEN PROPOSALS.

1239. On this question there has been much difference of opinion between the witnesses who appeared before us. Some witnesses attached such importance to securing periods of time during which County Councils would not in any circumstances have to deal with proposals for the alteration of the areas of Administrative Counties, that they subordinated all other considerations to this point. Other witnesses, anxious as they were to prevent proposals affecting either the same or adjacent parts of particular Administrative Counties from being made in close

succession, recognized that proposals came forward because conditions had so altered as to make it desirable, in the opinion of Town Councils, to readjust the organization of local government; and foresaw, further, that if Town Councils were debarred from making proposals for a definite time, there would be a tendency, at the end of that time, to bring forward proposals which might otherwise not have matured for a further period.

1240. Our conclusion on this question is that in any case in which a proposal for the constitution or extension of a County Borough relates to an area which has previously been included in a proposal, or affects an Administrative County in relation to which the Town Council have previously made a proposal, the proper authorities, in determining whether it is desirable to give effect to the proposal before them, should pay special regard to the question whether the Town Council are acting reasonably in repeating a proposal previously made, or in bringing forward a proposal affecting an Administrative County previously affected.

1241. It is clear that Committees of Parliament have ample powers to mark their disapproval of any unreasonable action on the part of promoters in repeating or submitting proposals. They can not only reject the proposal, but in any case in which opponents are put to expense unreasonably or vexatiously, they can enable opponents to recover from promoters the whole or any part of such costs. We were informed that the Minister of Health has power to take similar action on proposals dealt with by him under Provisional Order procedure.

### **Financial Adjustments.**

#### **AS TO INCREASE OF BURDEN ARISING FROM THE COST OF MAINTENANCE OF ROADS.**

1242. The question of outstanding importance in relation to financial adjustments is whether any alteration of the existing law is desirable in order to vary the incidence of the cost of the maintenance of main roads upon the ratepayers of Administrative Counties and of County Boroughs respectively.

We have come to the conclusion that the heavy burden in respect of this service which falls upon County ratepayers is largely due to circumstances which could not have been foreseen in 1913, when the Local Government (Adjustments) Act was passed.

We have accordingly considered various methods of distributing this burden more evenly between ratepayers in Administrative Counties and ratepayers in County Boroughs.

1243. First, we have examined the possibility of suggesting a general scheme under which the whole or part of the cost of the maintenance of main roads, so far as it falls upon ratepayers, should be defrayed by ratepayers in geographical Counties as a whole, or should be equalised by means of special contributions

made by particular County Borough Councils towards the expenditure on this service of particular County Councils.

1244. We have come to the conclusion that, while voluntary agreements for this purpose may be possible and equitable as between particular County Borough Councils and particular County Councils, the circumstances in the different areas vary so widely that it would be impossible to devise a general scheme which would effect a fair measure of equalisation between County ratepayers generally and County Borough ratepayers generally.

1245. Secondly, we have inquired whether there is any prospect in the near future of obtaining an increased rate of contributions from the Road Fund in aid of the maintenance of classified roads which would have the effect of diminishing the total burden of the cost in respect of this service which fell upon ratepayers, and would accordingly minimize the inequalities between the contributions of County ratepayers and County Borough ratepayers.

1246. The evidence submitted to us on behalf of the Ministry of Transport on this point shows that, although the amount of the grants from the Road Fund has been increasing from year to year owing to the additions that are made to the length of classified roads, the prospect of deriving any such increased rate of grants from the Road Fund must be regarded as somewhat remote. The revenues of the Fund are fully allocated for several years to come, and as far as can be foreseen, under the existing system of taxation of motor vehicles, money will not be available for increasing on any considerable scale the rates upon which grants to classified roads are based, though, should the Fund be increased, or the policy of its application be changed, this state of affairs may well be altered.

We do not, however, regard the prospect of obtaining such an increased rate of grants as a sufficient solution of the difficulties which have been brought to our notice.

1247. We have, therefore, thirdly, considered the question whether we should recommend any amendment of the Local Government (Adjustments) Act, 1913, for the purpose of increasing the sums payable in respect of increase of burden arising from the cost of the maintenance of roads. Any such increase would, in general, have the effect of making larger sums payable to County Councils in respect of main roads when areas are severed from the Administrative County either by the constitution or by the extension of County Boroughs.

1248. After careful consideration of all the circumstances brought to our notice, we recommend that Part II of the Schedule to the Local Government (Adjustments) Act, 1913, should be amended so as to provide that, in a case in which any increase of burden in respect of the maintenance of main or district roads is shown to be permanent, the maximum number twenty-one

should be substituted for the maximum number fifteen as the number by which the amount of annual increase of burden may be multiplied.

#### AS TO ADJUSTMENT OF CAPITAL ASSETS.

1249. There is one other matter in relation to financial adjustments which we desire to mention, namely, the difficulty that arises in settling that part of an adjustment which deals with land, property, and buildings. The question has to be determined by agreement between the parties concerned, or failing agreement by an arbitrator, who is required to make an equitable adjustment, and, since the conditions vary so widely, it would, in our opinion, be inexpedient to lay down definite rules upon which an arbitrator's decision must be based; in each case he must deal with the claim on the facts before him. We may, however, give the following examples of cases which arise in practice. Where property, which had previously been held for the benefit of, and enjoyed by, the whole or parts of the areas concerned, is retained by, or transferred to, one of the parties, who by reason thereof and of the change effected in the local areas will be relieved of the expense of providing accommodation, or where the inhabitants of both areas affected have had the beneficial user of the property, or, again, where the property or some part thereof is realizable, it seems to us that it would as a rule be fair that the party to the adjustment who relinquish their interest in the property should be able to establish a claim. Where, however, none of these conditions obtains, and where the land, property, or buildings will remain a burden on the party by whom it is retained, it seems to us that it would as a rule be unfair to make them pay the other party their share of the property.

### **SECTION 2.—CONCLUSIONS AND RECOMMENDATIONS RELATING TO THE CONSTITUTION OF COUNTY BOROUGHs ONLY.**

#### **Importance of Questions as to the Administration of Main Roads.**

1250. The impression made upon our minds by the evidence submitted to us is that questions relating to main roads, their maintenance and improvement, are a frequent source of differences between the Councils of Counties on the one hand and the Councils of Non-County Boroughs, Urban Districts, and Rural Districts on the other hand, and that in some cases these differences have had the effect of stimulating the desire of Town Councils to secure their freedom from County administration.

We have therefore approached the general question of the provisions which should in future govern the constitution of County Boroughs by considering, first, whether we could make any recommendations specially directed to removing difficulties

between County Councils and the other Authorities in Administrative Counties arising in relation to the administration of main roads.

Three questions of special importance have emerged under this head.

#### THE DETERMINATION OF MAIN ROADS.

1251. The Joint Select Committee of the House of Lords and the House of Commons who reported in 1911 on the subject of financial adjustments expressed the opinion that some central Authority should have the duty of deciding what roads ought to be considered main roads. Evidence on this question was also submitted to us, but we did not find it necessary to pursue the subject in detail, because we learnt that both classes of Local Authorities affected, that is, the County Councils on the one hand and the Councils of Non-County Boroughs and Urban Districts on the other hand, had come to an agreement that provision should be made for giving to the Councils of Non-County Boroughs and Urban Districts a right of appeal to the Minister of Transport against any refusal of a County Council to declare roads in their Borough or District to be main roads. We recommend that, as soon as practicable, legislative effect should be given to this agreement.

#### CONTRIBUTIONS FROM RATEPAYERS IN COUNTY DISTRICTS TOWARDS THE COST OF MAINTENANCE OF MAIN ROADS.

1252 The second question in relation to the administration of main roads is the question how far the contributions from ratepayers in County Districts towards the cost of the maintenance of main roads throughout Administrative Counties are equitable under the present system.

1253. We were impressed by the evidence of the late Mr. Marks, Clerk of the Bedfordshire County Council, in regard to the steps which had been taken by his Council over a long period to adjust the contributions of the ratepayers of towns in Bedfordshire to this purpose in such a manner that any grievance on the part of the Town Councils as representing these ratepayers should be removed, or at least mitigated.

1254. We recommend that a County Council, in considering the question whether any road shall be declared by them to be a main road under the Highways and Locomotives (Amendment) Act, 1878, with the result that the cost of its maintenance will fall upon the ratepayers throughout the Administrative County, should at the same time take into consideration the question of exercising their power under section 11 (10) of the Local Government Act, 1888, to contribute towards the cost of the maintenance, etc., of any highway in the County, although the same is not a main road, with a view to affording to the ratepayers in

County Districts, in proper cases, a set-off by means of such contributions against the sums which they are required to contribute towards the cost of the maintenance of main roads in the Administrative County generally.

CONTRIBUTIONS BY COUNTY COUNCILS FOR IMPROVEMENTS ON CERTAIN MAIN ROADS.

1255. The third question is that of the contributions made by County Councils to the cost of improvements on main roads which urban Authorities have claimed to maintain and repair.

1256. County Councils are bound to contribute towards the cost of the reasonable improvement of roads maintained by urban Authorities under section 11 (2) of the Local Government Act, 1888, if such improvement is "connected with the maintenance and repair" of the roads. We understand that this expression refers to the improvement of the surface of the roads, but that County Councils are not bound to contribute towards the cost of reasonable improvements, such as widening, which are not covered by this expression, on roads also maintained and repaired by urban Authorities, though they have power to contribute to such improvements under section 11 of the Local Government Act, 1888.

1257. It seems desirable that differences of this character should be capable of adjustment by the assistance, when necessary, of an independent authority, and we therefore recommend that if any difference arises between a County Council and an urban Authority on account of the refusal of the County Council to contribute towards the cost of any improvements on main roads which the urban Authority have claimed to maintain and repair, the difference should be referred to the Minister of Transport, and should be determined by him.

1258. In dealing with differences arising under this head, the Minister would no doubt pay due regard to the question whether an improvement is required wholly or mainly on account of the traffic which passes through or into the urban area, or wholly or mainly on account of the traffic within the urban area. In the latter case, and in the case of any improvement which is commonly called a "town's improvement," we hold that the whole or part of the cost should be left to fall upon the ratepayers in the urban area as distinct from the County ratepayers as a whole.

**The Figure of Population which should Entitle a Town Council to Propose the Constitution of a County Borough.**

1259. We heard very full statements from witnesses of the arguments by which they supported their widely different views on this question. The witnesses on behalf of County Councils

took their stand, first, on the fact that in 1888 the Government, when they submitted to Parliament a figure of the population which towns should be required to have as a condition of being constituted into County Boroughs, submitted the figure 150,000; secondly, on the growth of the population of England and Wales since that date; and thirdly, on the growing scope and complexity of the administration of local government since 1888, which had, in their view, rendered it impossible for a Town Council to administer services for the inhabitants of the town as efficiently and economically as may have been possible in 1888, if the population of the town were not more than 50,000.

1260. The witnesses on behalf of Town Councils, on the other hand, based their arguments for the retention of the existing figure of 50,000, first, on the fact that Parliament had decided that this figure was a proper one, and had not thought fit to change it in the light of the circumstances which had been common knowledge since 1888; secondly, on the evidence which they adduced that Councils of towns of this size were administering services for their inhabitants with proper efficiency and economy, and that other towns of the same size could be equally well administered if they were constituted into County Boroughs; and thirdly, on the ground that it would be undesirable for Parliament to require the population of a town to reach such a size before the town could be constituted into a County Borough that reasonable expectations, and valuable incentives to good government, would receive a check.

1261. This question is one of the most difficult which we have had to consider, but we have taken the view that the proper manner in which to deal with it was first to secure that when a proposal for the constitution of a County Borough is made by a Town Council under the law existing for the time being, the procedure by which the proposal is considered should be such as to satisfy both the Town Council and the County Council concerned that they are being fairly dealt with. The recommendations set out in the preceding Chapter of this Report are directed to this end.

1262. We regard the present statutory figure of population as a figure intended to prevent unreasonable proposals from being made, but not as a figure which indicates that every proposal which can be made ought to be put into effect. It has been well said to us that the quality of the administration of the Local Authority is of more importance than the quantity of the population in the town.

At the same time, we have come to the conclusion that the arguments based upon the growth of the population of the country as a whole since 1888, and the tendency of Parliament to entrust local government services to Authorities having jurisdiction over considerable aggregations of population, are entitled



to a certain weight. We are no less impressed by the desirability of encouraging Town Councils, who attach great value to winning for the towns the status of County Boroughs, to do everything which will enable them to show, when their population reaches the necessary size, that they have by the efficiency of their government satisfied the other, and the main, conditions which justify the grant of County Borough status.

1263. We accordingly recommend that in future the number of the population of a Borough which should entitle the Town Council to promote a Private Bill for the purpose of constituting the Borough into a County Borough should be 75,000.

#### EFFECT OF THE ADOPTION OF THE FOREGOING RECOMMENDATION.

1264. If the foregoing recommendation is adopted, it will have the effect of preventing the Town Councils of Boroughs with populations of not less than 50,000, but less than 75,000, from making proposals for the constitution of County Boroughs until in each case the population reaches the higher figure.

Some of these Town Councils have already made proposals for this purpose under the existing law; and as regards one of these proposals, although it is no part of our duty to express an opinion whether that proposal, if renewed, ought to be considered, we think it right to recapitulate the facts for the information of Parliament, with whom, under the system of procedure which we recommend, it will rest in future to deal directly with all proposals for the constitution of County Boroughs.

1265. The proposal to which we refer is that of the Doncaster Town Council, made in October, 1920, by application for a Provisional Order, and the facts are as follows:

The Minister of Health deferred action on the proposal until after the Census of 1921, which was taken on the 19th–20th June, 1921. A Local Inquiry was held into the proposal on the 30th November, and 1st December, 1921.

A Provisional Order to give effect to the proposal was made on the 11th March, 1922. The Provisional Order Confirmation Bill went to a Committee of the House of Commons on the 23rd and 24th May, 1922, and passed the Committee.

On the 13th June, 1922, the Minister of Health (Sir Alfred Mond) stated in the House of Commons that he proposed to recommend our appointment; and said "I should like to take advantage of this occasion to give notice, so far as the Ministry is concerned, that no contentious proposals for the extension of Boroughs and the creation of new County Boroughs will be entertained by the Ministry in the meantime."

On the 6th July, 1922, the Confirmation Bill was passed by the House of Commons. On the 25th, 26th, 27th, and 28th July, 1922, the Confirmation Bill went to a Committee of the House of Lords, but the Order was not confirmed.

### **SECTION 3.—CONCLUSIONS AND RECOMMENDATIONS RELATING TO THE EXTENSION OF COUNTY BOROUGHS ONLY.**

#### **General.**

1266. The recommendations which we have made in the preceding Chapter will have the effect, if adopted, of removing proposals for the extension of County Boroughs from the operation of the Provisional Order procedure if any Local Authority concerned object to the application of that procedure, and of requiring County Borough Councils to submit Private Bills directly to Parliament to give effect to their proposals.

We may accordingly assume that the more important proposals for the extension of County Boroughs will be likely in future to come before Parliament under Private Bill procedure and not under Provisional Order procedure.

This alteration limits the extent to which we can suggest that our conclusions and recommendations under this head should become binding upon the proper authorities.

1267. All that we propose to do under this head is to record the impression made upon us by the evidence in regard to the more important questions discussed by witnesses, and to suggest the point of view from which it seems to us reasonable that Parliament should be invited to consider these questions as they arise in relation to particular proposals.

#### **As to the Importance of the Wishes of the Inhabitants of Proposed Added Areas.**

1268. There was general agreement among the witnesses who appeared before us that the wishes of the inhabitants of areas which County Borough Councils propose to add to the Boroughs cannot be regarded as conclusive, whether they are in favour of, or in opposition to, the proposals.

1269. When the wishes of the inhabitants have been fairly ascertained, we think that although, as has been stated, they cannot be regarded as conclusive, the weight to be attached to them is so great that they ought not to be over-ruled unless it is shown that there are considerations of public advantage which in the opinion of the proper authorities are more weighty and of greater importance than the objections of the inhabitants.

Committees of Parliament have in the past come in some cases to the conclusion, after hearing the whole of the circumstances, that no sufficient grounds have been shown for over-ruling the wishes of the inhabitants of the areas affected. In other cases, Committees of Parliament have confirmed proposals to which

strong objection has been taken by a large majority of the inhabitants of the area sought to be annexed, and evidence has been submitted to us to the effect that the result of the extension has been beneficial even where it has been authorized in face of the objection of the inhabitants.

### **As to the Regulation of Offers of Differential Rating.**

1270. Evidence was given on this subject at considerable length, and the question is one to which witnesses representing Local Authorities of all types attach much importance.

1271. The conclusion at which we have arrived is that the practice of making provision for differential rates as one of the conditions of the extension of County Boroughs is a practice which must continue to be permitted, but should be carefully regulated.

The object of our recommendations under this head is, therefore, to secure that no agreements for differential rating are made between County Borough Councils and the Local Authorities of proposed added areas unless the circumstances are such as to make the agreement a proper one; and we regard it as incumbent upon the promoters to show that this condition is complied with, and that the agreement is reasonable in all the circumstances of the case.

1272. We desire, further, to express the opinion that the foregoing requirement should be applied with special care in any case in which the effect of the agreement for differential rating would be to make the rates payable in an area added to the Borough less in amount than the rates which were payable in the area at the date when the proposal of the County Borough Council was submitted to Parliament or to the Minister of Health.

1273. We understand that the opposition which has arisen to the practice of making agreements for differential rating arises largely on account of the influence which is said to be exerted by offers of a differential rate, sometimes made before a proposal is formally put forward, upon the wishes of the inhabitants in regard to the proposal generally. This matter is part of the general question of the influences which are brought to bear upon the inhabitants of proposed added areas either before a County Borough Council take formal action, or as soon as that action has been taken.

1274. We think that the practice of circulating statements to the inhabitants of a proposed added area of the advantages and disadvantages of the proposal to include the area in a County Borough ought always to be governed by the consideration that the Local Authorities, whether promoters or opponents, who circulate such statements, will be required to instify what is said

in them in examination before a Committee or Committees of Parliament; and that Parliament should make it plain that Local Authorities must take full responsibility for any such statement.

**As to the Admission of Particular Arguments relating to  
Proposals, and their Weight.**

1275. We have already said that the general principle to be applied to the consideration of proposals is, in our opinion, that they should be referred for determination to authorities who command general confidence; and that, if this is secured, it is neither necessary nor desirable to place any limit upon the considerations which may be submitted to them.

We do not, therefore, accept the suggestions which have been made to us in evidence by a number of witnesses that arguments relating to particular local government services, or to particular local circumstances, should either be excluded from the consideration of the authorities to whom proposals are submitted, or should be considered by those authorities under some fixed rule determining in advance the weight which should be given to various arguments.

1276. We think that the method by which arguments should be considered has been properly stated in another passage of the evidence, in which the witness said that all matters which were relevant could properly be taken into account, and that it should rest with the Local Authorities concerned to put forward considerations intended to show that the weight to be attached to particular facts or circumstances should be greater, or less, as the case might be.

The essential point to be considered by the authorities before whom a proposal comes is whether in the interests of the local government of the areas affected it is desirable to give effect to the proposal; and in the course of coming to a decision upon it they must make up their own minds on the question of the weight to be given to each argument which they hear as contributing to their decision.

CONSIDERATIONS RELATING TO PARTICULAR CLASSES OF  
ARGUMENTS

1277. In view of the foregoing conclusions, we do not make any recommendation for the exclusion in principle of any arguments which the proper authorities may consider relevant; and it only remains to draw attention to certain considerations bearing upon the weight which ought to be attached to certain arguments commonly arising in relation to proposals.

*Arguments as to Community of Interest Generally.*

1278. First, in regard to a class of arguments about which there was much difference of opinion between witnesses, namely,

that which includes arguments as to the propriety of extending the boundaries of a town as the population spreads, or as urban areas develop in close proximity to the town, or of including within the municipal boundaries housing estates or municipal works for which the County Borough Council are responsible, we think that the only satisfactory course is to leave to the proper authorities the task of evaluating such arguments as they bear upon each proposal in relation to which they are brought forward.

*Arguments as to Trading Services.*

1279. Secondly, we have had to consider the class of arguments which relates to the services commonly known as trading services.

While it would not be consistent with our general conclusion on the question of the admission of arguments to recommend that those relating to these services should be excluded from the purview of the authorities to whom proposals are referred, we have come to the conclusion that, unless the promoters can show to the satisfaction of such authorities that the circumstances in the area affected are of a special kind, the fact that they supply gas, water, electricity, or means of transport in a proposed added area should not be considered as an argument of serious importance in the determination of the question whether the proposal to extend the boundaries of the Borough is desirable.

*Arguments as to Town Planning.*

1280. Thirdly, we think that the fact that a town planning scheme extends both over the area of the County Borough and over the whole or part of any proposed added area should not be considered as being of serious importance in the determination of the question whether the proposal to extend the boundaries of the Borough is desirable.

*Arguments as to Administration of Public Education.*

1281. Fourthly, in regard to arguments which relate to the administration of public education in areas affected by any proposal, we can sufficiently state our conclusions by saying, as regards the provision of facilities for education by a County Borough Council who propose to extend the Borough boundaries, that it is obvious that the necessary institutions, especially for purposes of higher education, are, as a general rule, placed in the principal centres of population, and are naturally and rightly attended by pupils drawn from adjacent areas.

1282. We do not consider, therefore, that the authorities to whom proposals for the extension of County Boroughs are referred should consider in isolation the mere fact that such pupils come into the Borough from beyond the existing Borough boundaries.

What is required is that the proper authorities should consider the general organization of public education throughout the area affected; and it would no doubt be relevant to such consideration to inquire, for example, whether better provision could be made by the County Borough Council who proposed the extension, and whether proper facilities for the good education of pupils in the proposed added areas had in fact been available in the past.

1283. We desire also to mention under this head the importance of the application of the provisions of the existing law enabling Local Education Authorities to co-operate or combine for various purposes. It would no doubt be the practice of the authorities to whom proposals for the extension of County Boroughs were referred to consider (as part of their survey of the educational organization) the question whether the Local Authorities having jurisdiction in the proposed added areas had in the past made proper payments on account of any educational facilities provided for their inhabitants by County Borough Councils, and also whether any of the various forms of co-operation or combination contemplated by section 6 of the Education Act, 1921, had been attempted by the several Local Authorities concerned with the proposal of the County Borough Council.

*Arguments as to Provision of Sewerage and other Sanitary Services.*

1284. The provisions of the existing law under this head, and the various defects in the existing law and procedure, have been stated in the evidence taken before us, and have given rise to considerable discussion, in the course of this part of our inquiry, in their bearing upon the question of the extension of County Boroughs.

It will be our duty in the second part of our inquiry to consider, and make recommendations in regard to, the subject, and in this Report we have only to put forward conclusions and recommendations in regard to the extension of County Boroughs as affected by arguments relating to the provision of sewerage and other sanitary services.

1285. We have come to the conclusion that the authorities to whom proposals for the extension of County Boroughs are referred should give weight to arguments relating to the provision of sewerage and of other sanitary services, as tending to show that any proposal to extend the boundaries of a County Borough is desirable, in so far as they are satisfied that there would be a substantial improvement in sanitary administration (by which we mean, in application to a proposed added area, an improvement suited to the requirements of that area) which it would not be reasonable to expect to attain equally well by means other than the extension of the boundaries of the County Borough, such as.

for example, co-operation for the purpose of the provision of sewerage or other sanitary services between any of the Local Authorities concerned with the proposal for extension.

## CHAPTER XV.—SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS.

1286. We append a summary of the principal conclusions and recommendations contained in this Report.

### I. As to Methods of dealing with Proposals for the Constitution or Extension of County Boroughs.

#### PROPOSALS FOR THE CONSTITUTION OF COUNTY BOROUGHES.

(1) All proposals for the constitution of County Boroughs should be made by Private Bill (Chapter XIII, paragraphs 1194-5).

#### PROPOSALS FOR THE EXTENSION OF COUNTY BOROUGHES.

(2) Proposals for the extension of County Boroughs should be made by Private Bill unless in any case the County Borough Council concerned wish to proceed by application for a Provisional Order, and no other Local Authority concerned object to this procedure (Chapter XIII, paragraphs 1196-1200).

(3) County Councils concerned with proposals should confer with the Local Authorities of County Districts concerned before giving notice of objection to a proposal being dealt with under Provisional Order procedure (Chapter XIII, paragraphs 1201-3).

#### CONSEQUENTIAL CONCLUSIONS AND RECOMMENDATIONS.

(4) Private Bills containing proposals for the constitution or extension of County Boroughs and ancillary provisions for these purposes should be exempt, so far as these proposals and provisions are concerned, from the requirements of the Borough Funds Acts relating to the consent of the electors (Chapter XIII, paragraphs 1204-10).

(5) The Minister of Health should retain his discretion as to the reports which he makes upon Private Bills containing proposals for the constitution or extension of County Boroughs (Chapter XIII, paragraphs 1211-2).

(6) Regular arrangements should be made for the provision of information on matters of fact to the other Local Authorities concerned by County Borough Councils who make proposals for extension under Private Bill procedure, and to County Borough Councils by Local Authorities of proposed added areas who present petitions against such Bills (Chapter XIII, paragraphs 1213-4).

(7) As regards Local Inquiries into proposals for extension dealt with under Provisional Order procedure

(a) The practice, begun in 1921, of arranging as a normal procedure for preliminary visits and investigations to be made in the locality before any statutory Local Inquiry is held, should be discontinued (Chapter XIII, paragraph 1217);

(b) The arrangements relating to the conduct of Local Inquiries should be more formally regulated (Chapter XIII, paragraphs 1218-25);

(c) Local Authorities should be enabled by our main recommendations to secure the proper presentation of their views at Local Inquiries at less cost than before; but no statutory limitation should be placed on the employment of counsel or expert witnesses at Local Inquiries (Chapter XIII, paragraphs 1226-7).

## **II. Generally as to the Existing Law and Procedure Governing the Constitution or Extension of County Boroughs.**

### **THE TEST OF PROPOSALS.**

(8) Proposals for the extension of County Boroughs dealt with under Provisional Order procedure should continue to be subject to the existing statutory test whether in the opinion of the proper authorities they are "desirable."

This recommendation is in harmony with the existing practice of Parliament in dealing with proposals made by Private Bill either for the constitution or for the extension of County Boroughs (Chapter XIV, paragraphs 1229-33).

### **APPLICATION OF THE TEST.**

(9) In determining whether proposals are desirable, the proper authorities should have regard to the interests of all persons concerned, and, if those interests are divergent, to the balance of advantages and disadvantages involved as between all the divergent interests (Chapter XIV, paragraphs 1234-5).

### **CUMULATIVE EFFECT OF PROPOSALS.**

(10) The proper authorities, in dealing with a particular proposal, should take into account, *inter alia*, facts tending to show that further proposals affecting the same Administrative County may reasonably be anticipated (Chapter XIV, paragraphs 1237-8).

### **PROPOSALS AFFECTING DISTRICTS OR COUNTIES PREVIOUSLY AFFECTED.**

(11) The proper authorities, in dealing with a proposal relating to an area which was included in a former proposal, or affecting an Administrative County affected by a former proposal, should



pay special regard to the question whether the repetition or submission of the proposal is reasonable (Chapter XIV, paragraphs 1239-41).

#### FINANCIAL ADJUSTMENTS.

##### *As to Increase of Burden on Account of Roads.*

(12) The existing law relating to the financial adjustments which follow the constitution or extension of County Boroughs should be amended so as to provide that, in a case in which any increase of burden in respect of the maintenance of main or district roads is shown to be permanent, the maximum number twenty-one should be substituted for the maximum number fifteen as the number by which the amount of annual increase of burden may be multiplied (Chapter XIV, paragraphs 1242-8).

##### *As to Capital Assets.*

(13) We submit certain suggestions as to difficulties arising in financial adjustments with respect to the adjustment of capital assets (Chapter XIV, paragraph 1249).

#### CONSTITUTION OF COUNTY BOROUGHES.

##### *Administration of Main Roads.*

(14) As regards the existing law and procedure governing the constitution of County Boroughs, we recommend that, with a view to removing or mitigating differences between County Councils and other Local Authorities which have arisen in relation to main roads :—

(a) The existing law should be amended so as to give urban Authorities a right of appeal to the Minister of Transport against any refusal of a County Council to declare roads in their areas to be main roads (Chapter XIV, paragraph 1251);

(b) In considering whether to declare roads to be main roads, County Councils should at the same time consider the question of contributing under section 11 (10) of the Local Government Act, 1888, towards the cost of the maintenance, etc., of roads which are not main roads (Chapter XIV, paragraphs 1252-4); and

(c) Differences arising between a County Council and urban Authorities on the question whether the County Council should contribute towards the cost of improvements on main roads maintained and repaired by the urban Authorities should be referred to the Minister of Transport for determination (Chapter XIV, paragraphs 1255-8).

##### *Population Required to Enable Proposals to be Made.*

(15) The population of a Borough which should in future entitle the Town Council to make a proposal by Private Bill for the

constitution of the Borough into a County Borough should be 75,000 (Chapter XIV, paragraphs 1259-63).

#### EXTENSION OF COUNTY BOROUGHES.

##### *The Wishes of the Inhabitants of Proposed Added Areas.*

(16) As regards the existing law and procedure governing the extension of County Boroughs, we draw attention to the importance of the question of the weight to be attached to the wishes of the inhabitants of proposed added areas (Chapter XIV, paragraphs 1268-9).

##### *Regulation of Offers of Differential Rating.*

(17) We make recommendations for the regulation of offers of differential rating to the inhabitants of proposed added areas (Chapter XIV, paragraphs 1270-4).

##### *Admission and Weight of Arguments before the Proper Authorities.*

(18) We recommend that no relevant arguments should be excluded from the consideration of the proper authorities to whom proposals are referred, and that it should rest with the authorities in each case to determine the weight which they will attach to such arguments (Chapter XIV, paragraphs 1275-6).

##### *Considerations as to the Weight to be Attached to Certain Arguments.*

(19) We submit certain general considerations bearing upon the weight to be attached to certain arguments commonly arising, that is, arguments as to—

- (a) Community of interest generally (Chapter XIV, paragraph 1278);
- (b) Trading services (Chapter XIV, paragraph 1279);
- (c) Town planning (Chapter XIV, paragraph 1280);
- (d) Public education (Chapter XIV, paragraphs 1281-3);
- and
- (e) Provision of sewerage and other sanitary services (Chapter XIV, paragraphs 1284-5).

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1287. In concluding the first part of our inquiry we desire to express to Your Majesty our deep sense of the obligation which Your Commissioners are under to their Secretary, Mr. Michael Heseltine, C.B., their Assistant Secretary, Mr. J. A. Lawther, M.B.E., and Mr. J. D. Castle, all of the Ministry of Health, who form the entire staff attached to the Commission.

They have united great ability and great experience, and have acquired an intimate knowledge of local government from their connexion with the Ministry of Health, and of the transaction of the business of Commissions from their previous service with the Royal Commission on London Government. We feel that we are under a great debt of gratitude to these gentlemen, not only for the zeal and ability with which they have prepared the ground for the examination of witnesses, and organized the collection of the other information which has been laid before us, but also for the preparation of the draft of this Report. The duty of preparing this draft devolved in the main upon Mr. Heseltine, and we are fully sensible of the ability which he has displayed in assimilating the vast mass of information which it has taken us more than two years to collect, and in presenting it in a lucid and compact form. We feel that without the assistance of Mr. Heseltine and his colleagues, which has been so readily and cordially afforded, our task would have been vastly more difficult.

ALL WHICH WE HUMBLY SUBMIT FOR YOUR MAJESTY'S GRACIOUS CONSIDERATION.

ONSLow (*Chairman*).

STRACHIE.

G. M. W. MACDONOGH.

WM. MIDDLEBROOK.

LEWIS BEARD.

WALTER NICHOLAS.

W. B. RIDDELL.

E. HONORATUS LLOYD.

ARTHUR MYERS.

HARRY G. PRITCHARD.

EDMUND RUSSBOROUGH TURTON.

SEYMOUR WILLIAMS.

S. TAYLOR.

MICHAEL HESELTINE,  
*Secretary.*

J. A. LAWTHER,  
*Assistant Secretary.*

7th August, 1925.

## APPENDICES.

## APPENDIX I.

GOVERNMENT DEPARTMENTS, ETC., FROM WHOM  
EVIDENCE WAS RECEIVED.

*(With references to the relevant Part and page of the Minutes of Evidence taken before the Commission.)*

1.—Departments from whose Representatives Oral Evidence was  
Heard.

MINISTRY OF HEALTH	...	...	...	Mr. I. G. GIBBON, C.B.E., Assistant Secretary (I, 1, 19, 46, 76, 107). Lieut.-Colonel C. E. NORTON, C.M.G., R.E., Deputy Chief Engineering Inspector (II, 311, 374). Mr. W. M. CROSS, M.Inst.C.E., Engineering Inspector (II, 364). Mr. R. G. HETHERINGTON, O.B.E., M.Inst.C.E., Engineering Inspector (II, 367). Mr. H. R. HOOPER, O.B.E., M.Inst.C.E., Engineering Inspector (II, 371). Sir Aubrey V. SYMONDS, K.C.B., Second Secretary (VII, 1419).
BOARD OF CONTROL	...	...	...	Sir Frederick J. WILLIS, K.B.E., C.B., Chairman (II, 223). Mr. A. H. TREVOR, Commissioner (II, 223).
BOARD OF EDUCATION	...	...	...	Sir L. Amherst SELBY-BIGGE, Bart., K.C.B., Secretary (II, 402). Mr. W. R. BARKER, C.B., Legal Adviser (II, 402).
BOARD OF TRADE	...	...	...	Mr. J. E. SEARS, Junr., C.B.E., Deputy Warden of the Standards (II, 292). Mr. O. H. GRIMSHAW, Deputy Assistant Secretary of the Mercantile Marine Department (II, 299). Mr. G. E. BAKER, Assistant Secretary of the Mercantile Marine Department (II, 301). Mr. F. C. STARLING, Principal in the Mines Department (II, 303). Major L. F. C. MACLEAN, O.B.E., Official Emergency Officer attached to the Food Department (II, 305). Mr. H. C. HONEY, Director of Gas Administration (II, 306).

APPENDIX I.—*continued.*

ELECTRICITY COMMISSIONERS	..	Mr. R. T. G. FRENCH, O.B.E., Secretary (II, 328).
HOME OFFICE	..	Mr. A. L. DIXON, C.B., C.B.E., Assistant Secretary (II, 281).
LORD CHANCELLOR'S DEPARTMENT	..	Sir Claud SCHUSTER, K.C.B., C.V.O., K.C., Permanent Secre- tary to the Lord Chancellor and Clerk of the Crown (II, 427).
MINISTRY OF AGRICULTURE AND FISHERIES.		Sir Francis L. C. FLOUD, K.C.B., Secretary (II, 258).
MINISTRY OF TRANSPORT	..	Mr. H. H. PIGGOTT, C.B., C.B.E., Assistant Secretary, Roads Department (II, 381). Mr. E. W. ROWNTREE, Assistant Secretary, Secretarial Depart- ment (II, 391). Sir Henry P. MAYBURY, K.C.M.G., C.B., M.Inst.C.E., Director General of Roads (V, 1094; VII, 1494).
PRIVY COUNCIL OFFICE	..	Sir Almeric W. FITZROY, K.C.B., K.C.V.O., late Clerk of the Privy Council (II, 213).
PUBLIC WORKS LOAN COMMISSIONERS		Mr. H. G. H. BARNES, Secretary (II, 282).

2.—Parliamentary Authorities from whom Oral Evidence was  
Heard.

HOUSE OF COMMONS	...	Sir Ernest MOON, K.C.B., K.C., Counsel to the Speaker (II, 341).
HOUSE OF LORDS	...	Sir Albert GRAY, K.C.B., K.C., late Counsel to the Chairman of Committees (II, 355). The Right Hon. The Earl of DONOUGHMORE, K.P., Chairman of Committees (VII, 1457).

3.—Departments from whom Evidence was Received in  
Writing only.

AIR MINISTRY	...	(II, 431).
CHARITY COMMISSION	...	(II, 431).
BOARD OF CUSTOMS AND EXCISE	...	(II, 431).
GENERAL POST OFFICE	...	(II, 431).
MINISTRY OF LABOUR	..	(II, 432).
OVERSEA SETTLEMENT COMMITTEE	...	(II, 434).
SCOTTISH OFFICE	...	(VII, 1504).
WAR OFFICE	...	(II, 434).
OFFICE OF WORKS	...	(II, 436).

## APPENDIX II.

REPRESENTATIVES OF LOCAL AUTHORITIES FROM  
WHOM EVIDENCE WAS HEARD.

*(With references to the relevant Part and page of the Minutes of Evidence taken before the Commission.)*

## 1.—Representatives of County Councils.

Dr. J. J. BUTTERWORTH . . .	Medical Officer of Health, Lancashire County Council (VII, 1482).
Mr. Francis DENT . . .	Alderman, Essex County Council (III, 441, 469, 536, 629; VII, 1477).
Mr. (now Sir) William Vibart DIXON.	Late Deputy Clerk, West Riding of Yorkshire County Council (III, 579, 591, 639).
Sir James P. HINCHLIFFE . . .	Chairman, West Riding of Yorkshire County Council (III, 568).
Mr. E. J. HOLLAND, D.L., J.P. . .	Alderman and Vice-Chairman, Surrey County Council (IV, 852; V, 1113).
Mr. (now Sir) Percy R. JACKSON . .	Alderman, West Riding of Yorkshire County Council and Chairman of the Education Committee (III, 670).
Mr. Eustace JOY . . .	Clerk, Staffordshire County Council (V, 1076).
Mr. W. B. KEEN, F.C.A. . .	Chartered Accountant (IV, 691, 716, 732, 929).
The Right Hon. The Viscount LONG of WRAXALL.	Lord-Lieutenant for Wiltshire (III, 563).
Mr. W. W. MARKS . . .	Clerk, Bedfordshire County Council (IV, 813; V, 999).
Mr. Henry MELLISH, C.B. . .	Alderman and Vice-Chairman, Nottinghamshire County Council (III, 553).
Mr. C. G. MUSGRAVE . . .	Alderman and Vice-Chairman, Essex County Council (IV, 787).
Mr. A. H. PERKINS . . .	Accountant, Bedfordshire County Council (V, 999).
Mr. R. A. ROBINSON . . .	Chief Officer, Public Control Department, Middlesex County Council (VII, 1439).
Mr. Samuel TAYLOR, D.L., J.P. . .	Alderman, Lancashire County Council (III, 601, 615; IV, 839, 842).
Lieut.-Colonel D. WATTS MORGAN, D.S.O., M.P.	Member, Glamorganshire County Council (IV, 802).

APPENDIX II.—*continued.***2.—Representatives of Town Councils.**

Mr. W. BAGSHAW, O.B.E. ...	...	Town Clerk of Doncaster (VI, 1285).
Sir David BROOKS, G.B.E. ...	...	Alderman of the City of Birmingham (IV, 873, 898; VII, 1427).
Mr. Arthur COLLINS, F.S.A.A. ...	...	Financial Adviser to Local Authorities (IV, 691, 750, 869, 919, 968).
Mr. J. H. ELLIS, O.B.E. ...	...	Clerk of the Peace and late Town Clerk of Plymouth (VI, 1250).
Mr. H. W. FOVARGUE ...	...	Town Clerk of Eastbourne (V, 1165).
Sir Robert FOX ...	...	Town Clerk of Leeds (III, 489, 514).
Mr. D. L. HARBOTTLE, LL.B. ...	...	Town Clerk of Blackpool (VI, 1303).
Mr. Spurley HEY, M.A. ...	...	Director of Education for the City of Manchester (VII, 1391).
Mr. F. E. W. HOWELL ...	...	Town Clerk of Wolverhampton (VI, 1267).
Mr. J. Ernest JARRATT ...	...	Town Clerk of Southport (IV, 945).
Mr. C. S. JOHNSON ...	...	Town Clerk of Reading (VI, 1207).
Mr. H. LANG-COATH ...	...	Town Clerk of Swansea (VI, 1181).
Mr. H. LLOYD PARRY, O.B.E. ...	...	Town Clerk of Exeter (VI, 1238).
Mr. R. Beattie NICHOLSON, O.B.E.	...	Town Clerk of Lowestoft (V, 1127).
Mr. W. L. RAYNES ...	...	Alderman of the Borough of Cambridge (VII, 1439).
Mr. Percy SMALLMAN ...	...	Town Clerk of Hartlepool (on behalf of Hartlepool and eight other Non-County Boroughs) (VII, 1411).
Mr. W. SMITH ...	...	Town Clerk of Luton (V, 1026, 1041).
Major W. A. SPARROW, O.B.E., F.S.A.A.	...	Borough Treasurer of Eastbourne (V, 1179).
Dr. G. Mitchell WINTER, O.B.E., J.P.	...	Deputy Mayor of Torquay (VI, 1217; VII, 1450).

**3.—Representatives of Urban District Councils.**

Mr. W. T. POSTLETHWAITE, O.B.E., LL.B.	...	Clerk to the Swinton and Pendlebury Urban District Council (VI, 1321; VII, 1464).
Mr. F. Fearnley RHODES ...	...	Chairman of the Shipley Urban District Council (VI, 1337).
Mr. Samuel THOMAS, J.P. ...	...	Member of the Penarth Urban District Council (VI, 1349).

**4.—Representatives of Rural District Councils.**

Mr. W. B. PINDAR ...	...	Clerk to the Hunslet Rural District Council (VI, 1359).
Mr. T. D. WINDSOR WILLIAMS ...	...	Clerk to the Neath Rural District Council (VI, 1381).

## APPENDIX III.

**LOCAL AUTHORITIES WHOSE REPRESENTATIVES  
WERE MET BY THE COMMISSION DURING  
VISITS TO CERTAIN LOCALITIES.**

During a visit of five days to the West Riding of Yorkshire, Lancashire, and Cheshire, the Commission met representatives of the following Local Authorities:—

County Councils	...	...	Cheshire. Lancashire. West Riding of Yorkshire.
County Borough Councils	...	...	Barnsley. Blackpool. Bolton. Bradford. Bury. Dewsbury. Leeds. Manchester. Oldham. Rochdale. Salford. Stockport.
Non-County Borough Councils	...	...	Ashton-under-Lyne. Batley. Brighouse. Doncaster. Eccles. Heywood. Keighley. Leigh. Middleton. Morley. Pontefract. Pudsey.
Urban District Councils	...	...	Chadderton. Farnworth. Radcliffe. Royton. Stretford. Swinton and Pendlebury. Wombwell.
Rural District Councils	...	...	Bucklow. Hunslet. Pontefract.

During a visit of two days to Bedfordshire, Cambridgeshire, Huntingdonshire, and Northamptonshire, the Commission met representatives of the following Local Authorities:—

County Councils	...	...	Bedfordshire. Cambridgeshire. Huntingdonshire. Northamptonshire.
Non-County Borough Councils	...	...	Bedford. Cambridge. Luton.
Urban District Council	...	...	Kettering.
Rural District Councils	...	...	Bedford. Chesterton. Kettering. Luton.



## APPENDIX IV.

GOVERNMENTS WHO FURNISHED THE COMMISSION  
WITH INFORMATION AS TO THEIR SYSTEMS  
OF LOCAL GOVERNMENT.*Indian Empire.—*

Assam.  
Bengal.  
Bihar and Orissa.  
Bombay.  
Birma.  
Central Provinces.  
Madras.  
Punjab.  
United Provinces of Agra and  
Oudh.

*British Dominions.—**Australia.—*

New South Wales.  
Queensland.  
South Australia.  
Tasmania.  
Territories administered by the  
Commonwealth Government.  
Victoria.  
Western Australia.

*Canada.—*

Alberta.  
British Columbia.  
Manitoba.  
Nova Scotia.  
Ontario.  
Prince Edward Island.  
Quebec.  
Saskatchewan.

*New Zealand.**South Africa.—*

Cape of Good Hope.  
Natal.  
Transvaal.

*Foreign Countries.—*

Belgium.  
Denmark.  
France.  
Germany.  
Holland.  
Hungary.  
Italy.  
Norway.  
Sweden.  
Switzerland.

*Japan.**Egypt.*

Argentine.  
Brazil.  
United States of America.